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COMMITTEE ON FOREIGN RELATIONS
COMMITTEE ON INTERNATIONAL RELATIONS

Legislation on Foreign Relations Through 2004

JOINT COMMITTEE PRINT

JULY 2005

VOLUME I–B
OF VOLUMES I–A AND I–B

CURRENT LEGISLATION AND
RELATED EXECUTIVE ORDERS

U.S. SENATE
U.S. HOUSE OF REPRESENTATIVES

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FOREWORD

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

Volumes I (A and B), II (A and B), III and IV contain legislation and related material and are republished with amendments and additions on a regular basis. Volume V, which contains treaties and related material, will be revised as necessary.

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

RICHARD G. LUGAR,
Chairman, Committee on Foreign Relations.

HENRY J. HYDE,
Chairman, Committee on International Relations.

July 29, 2005.

EXPLANATORY NOTE

The body of statutory law set out in this volume was in force, as amended, at the end of 2004.

This volume sets out "session law" as originally enacted by Congress and published by the Archivist of the United States as "slip law" and later in the series *United States Statutes at Large* (as subsequently amended, if applicable). Amendments are incorporated into the text and distinguished by a footnote. Session law is organized in this series by subject matter in a manner designed to meet the needs of the Congress.

Although laws enacted by Congress in the area of foreign relations are also codified by the Law Revision Counsel of the House of Representatives, typically in title 22 United States Code, those codifications are not positive law and are not, in most instances, the basis of further amendment by the Congress. Cross references to the United States Code are included as footnotes for the convenience of the reader.

All Executive orders and State Department delegations of authority are codified and in force as of February 1, 2005.

Corrections may be sent to Dianne E. Rennack at Library of Congress, Congressional Research Service, Washington D.C., 20540–7460, or by e-mail at drennack@crs.loc.gov.

ABBREVIATIONS

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

CONTENTS

	Page
FOREWORD	III
EXPLANATORY NOTE	V
ABBREVIATIONS	VI
A. FOREIGN ASSISTANCE	1
1. Other Foreign Assistance Related Legislation and Materials	6
2. Executive Orders, Delegations of Authority, and Reorganization Plans Relating to Foreign Assistance and Arms Exports	555
3. Armed Forces Legislation	597
4. 10 U.S.C. 7307—Disposals to Foreign Nations of Naval Vessels	1333
B. AGRICULTURAL COMMODITIES	1336
1. Agricultural Trade Development and Assistance	1337
2. Agricultural Trade	1473
3. Agricultural Act of 1980 and Related Material	1518
4. National Agricultural Research, Extension, and Teaching Policy Act of 1977 (Public Law 95–113) (partial text)	1532
5. Agriculture and Food Act of 1981 (Public Law 97–98) (partial text)	1537
6. International Carriage of Perishable Foodstuffs Act (Public Law 97–325)	1543
7. Pesticide Monitoring Improvements (Public Law 100–418) (partial text)	1547
C. THE PEACE CORPS	1549
1. The Peace Corps Act, as amended (Public Law 87–293)	1551
2. Establishment of the Peace Corps as an Independent Agency (Public Law 97–113) (partial text)	1581
3. Paul D. Coverdell Programs	1584
4. Peace Corps Reauthorization	1588
5. Independent Implementing Provisions of Public Law 89–134	1594
6. Higher Education Act Amendments—Provisions Relating to the Peace Corps (Public Law 99–498) (partial text)	1596
7. National and Community Service Act of 1990 (Public Law 101–610) (partial text)	1597
8. The Peace Corps—Establishment as Agency Within ACTION (Executive Order 12137)	1605
9. Providing for the Appointment of Former Peace Corps Volunteers to the Civilian Civil Service (Executive Order 11103)	1610
APPENDICES	1611
INDEX	1654

A. FOREIGN ASSISTANCE

CONTENTS

Page

1. Other Foreign Assistance Related Legislation and Materials .....
   a. Policy Toward Iraq 6
      (1) Iraq Freedom Fund/Iraqi Relief and Reconstruction Fund (Public Law 108–11) (partial text) 6
      (2) Iraq Liberation Act of 1998 (Public Law 105–338) 21
      (3) Iran-Iraq Arms Non-Proliferation Act of 1992 (Public Law 102–484) (partial text) 26
      (4) Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991 (Public Law 102–25) (partial text) 32
      (5) Iraq Sanctions Act of 1990 (Public Law 101–513) (partial text) 46
   b. Assistance to Eastern Europe and the Former Soviet Union 57
      (1) Belarus Democracy Act of 2004 (Public Law 108–347) 57
      (2) Russian Democracy Act of 2002 (Public Law 107–246) 62
      (3) Act For Reform In Emerging New Democracies and Support and Help for Improved Partnership With Russia, Ukraine, and Other New Independent States (FRIENDSHIP Act) (Public Law 103–199) (partial text) 67
      (4) Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 (FREEDOM Support Act) (Public Law 102–511) (partial text) 73
      (5) Emergency Airlift to the Soviet Union (Public Law 102–228) (partial text) 106
      (6) Soviet-Eastern Europe Educational Exchange Programs in the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138) (partial text) 109
      (7) Eisenhower Exchange Fellowship Act of 1990 (Public Law 101–454) 115
      (8) Assistance to Eastern Europe and Yugoslavia (Public Law 101–243) (partial text) 119
      (9) Support for East European Democracy (SEED) Act of 1989 (Public Law 101–179) 120
      (10) American Aid to Poland Act of 1988 (Public Law 100–418) (partial text) 150
      (11) Clement J. Zablocki Memorial Outpatient Facility, American Children's Hospital, Krakow, Poland (Public Law 98–266) 153
      (12) Research and Training for Eastern Europe and the Independent States of the Former Soviet Union Act of 1983 (Public Law 98–164) (partial text) 154
      (13) Central European Enterprise Development (Act of July 30, 1953) (partial text) 160
      (14) Support for East European Democracy (SEED) Program (Executive Order 12703) 162
      (15) Delegation of Authorities Under the FREEDOM Support Act (Executive Order 12884) 163
   c. Assistance to Africa 165
      (1) Zimbabwe Democracy and Economic Recovery Act of 2001 (Public Law 107–99) 165
      (2) African Growth and Opportunity Act (Public Law 106–200) (partial text) 169
      (3) Africa: Seeds of Hope Act (Public Law 105–385) (partial text) 183
      (4) Prohibition on Assistance to Mauritania (Public Law 104–319) (partial text) 189

(5) African Conflict Resolution Act (Public Law 103–381) 191
(6) South African Democratic Transition Support Act of 1993 (Public Law 103–149) (partial text) 196
(7) Horn of Africa Recovery and Food Security Act (Public Law 102–274) 202
(8) Peace Process Support in Liberia (Public Law 102–270) 211
(9) African Famine Relief and Recovery Act of 1985 (Public Law 99–8) (partial text) 213
d. Assistance to Latin America 216
(1) Emergency Supplemental Act, 2000—Plan Colombia (Public Law 106–246) (partial text) 216
(2) Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (Public Law 104–114) 227
(3) Enterprise for the Americas Initiative Act of 1992 (Public Law 102–532) (partial text) 267
(4) Enterprise for the Americas Facility as Established in P.L. 480 (Public Law 83–480) (partial text) 270
(5) Urgent Assistance for Democracy in Panama Act of 1990 (Public Law 101–243) (partial text) 280
(6) Survival Assistance to Victims of Civil Strife in Central America (Public Law 101–215) 284
(7) Central America Peace Assistance (Public Law 100–276) 285
(8) Latin American Development Act, as amended (Public Law 86–735) 290
e. Assistance to the Middle East 293
(1) Middle East Peace Commitments Act of 2002 (Public Law 107–228) (partial text) 293
(2) Middle East Peace Facilitation Act of 1995 (Public Law 104–107) (partial text) 296
(3) Middle East Peace Facilitation Act of 1994 (Public Law 103–236) (partial text) 304
(4) Middle East Peace Facilitation Act of 1993 (Public Law 103–125) 308
(5) Emergency Supplemental Persian Gulf Refugee Assistance Act of 1991 (Public Law 102–45) 311
(6) Emergency Supplemental Assistance for Israel Act of 1991 (Public Law 102–21) 313
(7) Jordan Supplemental Economic Assistance Authorization Act of 1985 (Public Law 99–88) (partial text) 314
(8) Lebanon Emergency Assistance Act of 1983 (Public Law 98–43) (partial text) 316
(9) Special International Security Assistance Act of 1979 (Public Law 96–35) (partial text) 318
f. Asia 322
(1) Afghan Women and Children Relief Act of 2001 (Public Law 107–81) 322
(2) United States China Economic and Security Review Commission (Public Law 108–7) (partial text) 324
(3) U.S.-China Relations Act of 2000 (Public Law 106–286) (partial text) 327
(4) Pakistan—Exemption of Foreign Assistance Prohibitions (Public Law 107–57) 345
(5) Waiver of Certain Sanctions Against India and Pakistan (Public Law 106–79) (partial text) 348
(6) India-Pakistan Act of 1998 (Public Law 105–277) (partial text) 350
(7) Agriculture Export Relief Act of 1998 (Public Law 105–194) (partial text) 351
(8) Bangladesh Disaster Assistance Act of 1988 (Public Law 100–576) 352
g. Anglo-Irish Agreement Support Act of 1986 (Public Law 99–415) (partial text) 355
h. International Narcotics Control 360
(1) Western Hemisphere Drug Elimination Act (Public Law 105–277) (partial text) 360
(2) President's Council on Counter-Narcotics (Public Law 105–277) (partial text) 376

(3) International Narcotics Control Corrections Act of 1994 (Public Law 103–447) (partial text) 378
(4) International Narcotics Control Act of 1990 (Public Law 101–623) (partial text) 380
(5) Licit Opium Imports (title XXVI of Public Law 101–647) 389
(6) International Narcotics Control Act of 1989 (Public Law 101–231) (partial text) 391
(7) International Narcotics Control Act of 1988 (title IV of Public Law 100–690) (partial text) 401
(8) International Narcotics Control Act of 1986 (title II of Public Law 99–570) (partial text) 404
(9) Export-Import Bank Act of 1945—Provisions Governing Foreign Assistance Act Funds in Counter-Narcotics (Public Law 79–173) (partial text) 406
(10) National Drug Control Program (Executive Order 12880) 408
(11) President's Drug Policy Council (Executive Order 12992) 410
i. Security Assistance and Arms Sales Legislation 412
(1) Security Assistance Act of 2002 (Public Law 107–228) (partial text) 412
(2) Gerald B.H. Solomon Freedom Consolidation Act of 2002 (Public Law 107–187) 444
(3) Security Assistance Act of 2000 (Public Law 106–280) 448
(4) Security Assistance Act of 1999 (Public Law 106–113) (partial text) 465
(5) Defense Offsets Disclosure Act of 1999 (Public Law 106–113) (partial text) 469
(6) International Arms Sales Code of Conduct Act of 1999 (Public Law 106–113) (partial text) 475
(7) Proposed Arms Sales to Jordan (Public Law 99–162) 478
(8) Conditions on Arms Sales to Turkey (Public Law 94–104) (partial text) 479
(9) Emergency Security Assistance Act of 1973 (Public Law 93–199) . 481
(10) Mutual Security Act of 1959, as amended (Public Law 86–108) (partial text) 483
(11) Mutual Security Act of 1954, as amended (Public Law 83–665) (retained provisions) 484
Sec. 408—North Atlantic Treaty Organization 484
Sec. 417—Irish Counterpart 485
Sec. 502—Use of Foreign Currency 485
Sec. 514—International Educational Exchange Activities 487
Sec. 523—Coordination With Foreign Policy 488
Sec. 536—Joint Commission on Rural Reconstruction in China ... 488
(12) Notice to Congress of Certain Transfers of Defense Articles and Defense Services (Public Law 80–253) (partial text) 489
j. Development Assistance Legislation 491
(1) Assistance for International Malaria Control Act (Public Law 106–570) (partial text) 491
(2) Microenterprise for Self-Reliance and International Anti-Corruption Act of 2000 (Public Law 106–309) 496
(3) Global AIDS and Tuberculosis Relief Act of 2000 (Public Law 106–264) 509
(4) Access to AIDS/HIV Pharmceuticals and Medical Technologies (Executive Order 13155) 521
(5) International Debt Relief (Public Law 106–113) (partial text) 524
(6) Torture Victims Relief 529
(A) Torture Victims Relief Reauthorization Act of 2003 (Public Law 108–179) (partial text) 529
(B) Torture Victims Relief Reauthorization Act of 1999 (Public Law 106–87) (partial text) 530
(C) Torture Victims Relief Act of 1998 (Public Law 105–320) (partial text) 532
(7) Miscellaneous Authorization—Fiscal Years 1996 and 1997 (Public Law 104–164) 536
(8) International Cooperation to Protect Biological Diversity (Public Law 100–530) 539
(9) Control of Swine Influenza (Public Law 94–302) (partial text) 540
k. Use of Foreign Currencies 541

(1) 31 U.S.C. 1306. Use of Foreign Credits 541
(2) General Government Matters Appropriation Act, 1962 (Public Law 87–125) (partial text) 542
(3) Use of Reserved Coins and Currencies of Foreign Countries (31 U.S.C. 5303) 543
l. Merchant Marine Act of 1936, as amended (partial text) 544
2. Executive Orders, Delegations of Authority, and Reorganization Plans Relating to Foreign Assistance and Arms Exports 555
a. Administration of Foreign Assistance and Related Functions (Executive Order 12163) 555
b. State Department Delegation of Authority No. 145 565
c. International Development Cooperation Agency Delegation of Authority No. 1 577
d. Administration of Arms Export Controls (Executive Order 11958) 579
e. Overseas Private Investment Corporation (Executive Order 11579) 583
f. Performance of Functions Authorized by the Foreign Assistance Act of 1961, as amended (Executive Order 11223) 585
g. Foreign Disaster Assistance (Executive Order 12966) 588
h. Global Disaster Information Network (Executive Order 13151) 589
i. Assigning Foreign Affairs Functions and Implementing the Enterprise for the Americas Initiative and the Tropical Forest Conservation Act (Executive Order 13345) 592
j. Delegation of Certain Waiver, Determination, Certification, Recommendation, and Reporting Functions (Executive Order 13346) 595
3. Armed Forces Legislation 597
a. Title 10, United States Code 597
b. Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375) (partial text) 693
c. Department of Defense Appropriations Act, 2005 (Public Law 108–287) (partial text) 726
d. National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136) (partial text) 739
e. Department of Defense Appropriations Act, 2004 (Public Law 108–87) (partial text) 762
f. Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314) (partial text) 771
g. Department of Defense Appropriations Act, 2003 (Public Law 107–248) (partial text) 810
h. National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107) (partial text) 812
i. Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398) (partial text) 821
j. National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65) (partial text) 847
k. Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261) (partial text) 886
l. National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85) (partial text) 924
m. National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201) (partial text) 963
n. National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106) (partial text) 984
o. National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337) (partial text) 1001
p. National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160) (partial text) 1031
q. Department of Defense Appropriations Act, 1994 (Public Law 103–139) (partial text) 1060
r. National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484) (partial text) 1062
s. Department of Defense Appropriations Act, 1993 (Public Law 102–396) (partial text) 1113
t. National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190) (partial text) 1114
u. National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510) (partial text) 1143

v. National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189) (partial text) 1181
w. Department of Defense Appropriations Act, 1991 (Public Law 101–511) (partial text) 1209
x. National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456) (partial text) 1215
y. Department of Defense Appropriations Act, 1989 (Public Law 100–463) (partial text) 1233
z. National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100–180) (partial text) 1237
aa. Department of Defense Authorization Act, 1987 (Public Law 99–661) (partial text) 1263
bb. Department of Defense Authorization Act, 1986 (Public Law 99–145) (partial text) 1274
cc. Department of Defense Authorization Act, 1985 (Public Law 98–525) (partial text) 1294
dd. Department of Defense Authorization Act, 1984 (Public Law 98–94) (partial text) 1313
ee. Department of Defense Authorization Act, 1983 (Public Law 97–252) (partial text) 1322
ff. Department of Defense Appropriation Authorization Act, 1979 (Public Law 95–485) (partial text) 1325
gg. Department of Defense Appropriation Authorization Act, 1975 (Public Law 93–365) (partial text) 1326
hh. Armed Forces Appropriation Authorization, 1971 (Public Law 91–441) (partial text) 1329
ii. Authorization for an Improved U.S./Soviet Direct Communications Link (Public Law 99–85) 1331
4. 10 U.S.C. 7307—Disposals to Foreign Nations of Naval Vessels 1333

1. Other Foreign Assistance Related Legislation and Materials

a. Policy Toward Iraq [1]

(1) Iraq Freedom Fund/Iraqi Relief and Reconstruction Fund

Partial text of Public Law 108–11 [H.R. 1559], 117 Stat. 559, approved April 16, 2003; amended by Public Law 108–106 [Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004; H.R. 3289], 117 Stat. 1209, approved November 6, 2003; Public Law 108–447 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005; H.R. 4818], 118 Stat. 2809, approved December 8, 2004

AN ACT Making emergency wartime supplemental appropriations for the fiscal year 2003, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2003, and for other purposes, namely:

TITLE I—WAR-RELATED APPROPRIATIONS

* * * * * * *

CHAPTER 3

DEPARTMENT OF DEFENSE—MILITARY

* * * * * * *

IRAQ FREEDOM FUND [2]

(TRANSFER OF FUNDS)

There is established in the Treasury of the United States a special account to be known as the "Iraq Freedom Fund". For additional expenses for ongoing military operations in Iraq, and those

[1] See also various Foreign Assistance Appropriations Acts and Emergency Supplemental Appropriations Acts, in *Legislation on Foreign Relations Through 2004*, vol. I–A. See also the Authorization for Use of Military Force Against Iraq Resolutions (Public Law 102–1, enacted January 14, 1991, and Public Law 107–243, enacted October 16, 2002), in *Legislation on Foreign Relations Through 2004*, vol. II. See also legislation relating to sanctions imposed on Iraq, in *Legislation on Foreign Relations Through 2004*, vol. III. See also various National Defense Authorization Acts in this volume.

[2] Sec. 8128 of the Department of Defense Appropriations Act, 2004 (Public Law 108–87; 117 Stat. 1102), provided the following:

"(RESCISSION)

"SEC. 8128. Of the funds made available in chapter 3 of title I of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11), under the heading 'Iraq Freedom Fund', $3,490,000,000 are hereby rescinded.".

Title I of Public Law 108–106 (117 Stat. 1211) provided the following:

operations authorized by Public Law 107–40, and other operations and related activities in support of the global war on terrorism, not otherwise provided for, necessary to finance the estimated partial costs of combat, stability operations (including natural resource risk remediation activities), force reconstitution, replacement of munitions and equipment, and other costs, there is hereby appropriated $15,678,900,000, to remain available for transfer until September 30, 2004: *Provided,* That amounts provided under this heading shall be available for transfer for the following activities:

"IRAQ FREEDOM FUND

"(INCLUDING TRANSFER OF FUNDS)

"For 'Iraq Freedom Fund', $1,988,600,000, to remain available for transfer until September 30, 2005, for the purposes authorized under this heading in Public Law 108–11: *Provided,* That the Secretary of Defense may transfer the funds provided herein to appropriations for military personnel; operation and maintenance; Overseas Humanitarian, Disaster, and Civic Aid; procurement; military construction; the Defense Health Program; and working capital funds: *Provided further,* That funds transferred shall be merged with and be available for the same purposes and for the same time period as the appropriation or fund to which transferred: *Provided further,* That this transfer authority is in addition to any other transfer authority available to the Department of Defense: *Provided further,* That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further,* That the Secretary of Defense shall, not fewer than 5 days prior to making transfers from this appropriation, notify the congressional defense committees in writing of the details of any such transfer: *Provided further,* That the Secretary shall submit a report no later than 30 days after the end of each fiscal quarter to the congressional defense committees summarizing the details of the transfer of funds from this appropriation: *Provided further,* That not less than $62,100,000 shall be transferred to 'Other Procurement, Army' for the procurement of Up-armored High Mobility Multipurpose Wheeled Vehicles and associated equipment: *Provided further,* That $10,000,000 shall be for the Family Readiness Program of the National Guard.".

Sec. 1507 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2099) provided the following:

"SEC. 1507. IRAQ FREEDOM FUND.

"(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal year 2005 for the account of the Iraq Freedom Fund in amount of $3,892,000,000, to remain available for transfer to other accounts in this title until September 30, 2006. Amounts of authorization so transferred shall be merged with and be made available for the same purposes as the authorization to which transferred. Of the amounts provided in this section $1,800,000,000 shall only be used for classified programs.

"(b) NOTICE TO CONGRESS.—A transfer may be made from the Iraq Freedom Fund only after the Secretary of Defense notifies the congressional defense committees with respect to the proposed transfer in writing not less than five days before the transfer is made.".

Title IX of the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 1005), provided the following:

"IRAQ FREEDOM FUND

"(INCLUDING TRANSFER OF FUNDS

"For an additional amount for 'Iraq Freedom Fund', $3,800,000,000, to remain available for transfer until September 30, 2006, only to support operations in Iraq or Afghanistan and classified activities: *Provided,* That the Secretary of Defense may transfer the funds provided herein to appropriations for military personnel; operation and maintenance; Overseas Humanitarian, Disaster, and Civic Aid; procurement; research, development, test and evaluation; the Defense Health Program; and working capital funds: *Provided further,* That of the amounts provided under this heading, $1,800,000,000 shall only be for classified programs, described in further detail in the classified annex accompanying this Act: *Provided further,* That up to $100,000,000 shall be available for the Department of Homeland Security, 'United States Coast Guard, Operating Expenses': *Provided further,* That funds transferred shall be merged with and be available for the same purposes and for the same time period as the appropriation or fund to which transferred: *Provided further,* That this transfer authority is in addition to any other transfer authority available to the Department of Defense: *Provided further,* That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further,* That the Secretary of Defense shall, not fewer than 5 days prior to making transfers from this appropriation, notify the congressional defense committees in writing of the details of any such transfer: *Provided further,* That the Secretary shall submit a report no later than 30 days after the end of each fiscal quarter to the congressional defense committees summarizing the details of the transfer of funds from this appropriation.".

Not less than $1,771,180,000 for classified programs, which shall be in addition to amounts provided for elsewhere in this chapter, and under this heading, for procurement and research, development, test and evaluation;

Not less than $1,100,000,000 for increased fuel costs, for transfer to "Defense Working Capital Funds";

Up to $1,400,000,000 for transfer to "Operation and Maintenance, Defense-Wide", only for purposes further specified in section 1310 of this chapter;

Up to $489,300,000 for transfer to the "Natural Resources Risk Remediation Fund";

Up to $400,000,000 for transfer to Department of Homeland Security, "United States Coast Guard, Operating Expenses", to support military activities in connection with operations in and around Iraq and the global war on terrorism;

Up to $57,600,000 for research, development, test, and evaluation; and

Up to $25,000,000 for counter-terrorism military training activities for foreign governments in connection with the global war on terrorism, including equipment, supplies and services, on such terms as the Secretary of Defense, with the concurrence of the Secretary of State and 15 days following submission of a financial plan for the use of such funds to the congressional defense committees, may determine:

Provided further, That in addition to the transfers authorized in the preceding proviso, the Secretary of Defense may transfer the funds provided herein to appropriations for military personnel; operation and maintenance; Overseas Humanitarian, Disaster Assistance, and Civic Aid; procurement; research, development, test and evaluation; military construction; the Defense Health Program appropriation; and working capital funds: *Provided further,* That the funds transferred under this heading shall be merged with and shall be available for the same purposes and for the same time period, as the appropriation to which transferred: *Provided further,* That the transfer authority provided in this paragraph is in addition to any other transfer authority available to the Department of Defense: *Provided further,* That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further,* That the Secretary of Defense shall, not fewer than 5 days prior to making transfers from this appropriation, notify the congressional defense committees in writing of the details of any such transfer: *Provided further,* That the Secretary of Defense shall submit a report no later than July 1, 2003, and then 30 days after the end of each fiscal quarter to the congressional defense committees summarizing the details of the transfer of funds from this appropriation.

NATURAL RESOURCES RISK REMEDIATION FUND

(TRANSFER OF FUNDS)

There is established in the Treasury of the United States a special account to be known as the "Natural Resources Risk Remediation Fund". Funds transferred to, appropriated to, and contributions made to, the Natural Resources Risk Remediation Fund may be made available for expenses necessary, in and around Iraq, to address emergency fire fighting, repair of damage to oil facilities and related infrastructure, and preserve a distribution capability, and may remain available until expended: *Provided,* That up to $489,300,000 of the funds appropriated to the Iraq Freedom Fund in this Act may be transferred to this fund: *Provided further,* That the Secretary of Defense may accept from any person, foreign government, or international organization, and credit to this fund, any contribution of money for such purposes: *Provided further,* That funds available in the Defense Cooperation Account may be transferred to and merged with the Natural Resources Risk Remediation Fund: *Provided further,* That the Secretary of Defense may transfer funds available in the Natural Resources Risk Remediation Fund to other appropriations or funds of the Department of Defense to carry out such purposes, or to reimburse such appropriations or funds for expenses incurred for such purposes: *Provided further,* That funds so transferred shall be merged with and shall be available for the same purposes and for the same time period as the appropriation or fund to which transferred: *Provided further,* That the transfer authority provided in this paragraph is in addition to any other transfer authority available to the Department of Defense: *Provided further,* That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided, such amounts may be transferred back to this appropriation: *Provided further,* That in administering the Natural Resources Risk Remediation Fund during fiscal year 2003, the Secretary of Defense may transfer funds from the Iraq Freedom Fund only to the extent that amounts transferred from the Defense Cooperation Account and amounts accepted pursuant to the authority of the second proviso of this paragraph are not currently available: *Provided further,* That, hereafter, contributions of money deposited into the Natural Resources Risk Remediation Fund shall be reported to the Congress in the same report, and under the same terms and conditions, as the report required for contributions to the Defense Cooperation Account under section 2608, chapter 155 of title 10, United States Code: *Provided further,* That the Secretary of Defense shall submit a report no later than 30 days after the end of each fiscal quarter to the congressional defense committees of any transfer of funds from this appropriation.

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GENERAL PROVISIONS, THIS CHAPTER

SEC. 1301. Except as otherwise specifically provided in this chapter, amounts provided to the Department of Defense under each of the headings in this chapter shall be available for the same time period, and subject to the same terms and conditions, as the

amounts appropriated or otherwise made available in the Department of Defense Appropriations Act, 2003 (Public Law 107–248) and Making Further Continuing Appropriations for the Fiscal Year 2003, and for Other Purposes (Public Law 108–7).

SEC. 1302. None of the funds provided in this chapter may be used to finance programs or activities denied by Congress in previous fiscal year 2003 appropriations acts which make appropriations to the Department of Defense or to initiate a procurement or research, development, test and evaluation new start program without prior notification to the congressional defense committees.

SEC. 1303. None of the funds in this chapter may be used to develop or procure any item or capability that will not be fielded within 4 years of enactment of this Act.

* * * * * * *

(INCLUDING TRANSFER OF FUNDS)

SEC. 1307. In addition to amounts made available elsewhere in this Act for the Department of Defense, $165,000,000 is appropriated to the Department of Defense to reimburse applicable appropriations for the value of drawdown support provided by the Department of Defense under the Afghanistan Freedom Support Act of 2002: *Provided,* That this appropriation shall not increase the limitation set forth in section 202(b) of that Act: *Provided further,* That the Secretary of Defense may transfer the funds provided herein to the applicable appropriations of the Department of Defense: *Provided further,* That the funds transferred shall be merged with and shall be available for the same purposes and for the same time period as the appropriation to which transferred: *Provided further,* That the transfer authority provided in this section is in addition to any other transfer authority available to the Department of Defense: *Provided further,* That notwithstanding any other provision of law, none of the funds provided in this or any other appropriations Act for the Department of Defense may be used for the drawdown authority in section 202 of the Afghanistan Freedom Support Act of 2002 (Public Law 107–327) prior to notifying in writing the House and Senate Committees on Appropriations of the source of the funds to be used for such purpose.

SEC. 1308. Funds appropriated in this Act, or made available by the transfer of funds in or pursuant to this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414).

SEC. 1309. (a) Of the amounts available to the Secretary of Defense, $63,500,000 may be used to reimburse applicable appropriations for the value of support provided by the Department of Defense under the Iraq Liberation Act of 1998: *Provided,* That this appropriation shall not increase the limitation set forth in section (4)(a)(2)(B) of that Act.

(b) Section (4)(a)(2) of the Iraq Liberation Act of 1998[3] is amended by adding the following new subparagraph at the end:

[3] Public Law 105–338 (112 Stat. 3178) may be found in *Legislation on Foreign Relations Through 2004,* vol. I–B.

"(C) The aggregate value (as defined in section 644(m) of the Foreign Assistance Act of 1961) of assistance provided under this paragraph may not exceed $86,500,000 in fiscal year 2003.".

(c) Notwithstanding any other provision of law, none of the funds provided in this or any other appropriations Act for the Department of Defense may be used for the drawdown authority in section (4)(a)(2) of the Iraq Liberation Act of 1998 (including the drawdown authority of this section) unless the House and Senate Committees on Appropriations are notified in writing of the sources of the funds to be used for such purpose not later than 7 days following the exercise of the drawdown authority.

(INCLUDING TRANSFER OF FUNDS)

SEC. 1310. Up to $1,400,000,000 of funds transferred under the authority provided under the heading "Iraq Freedom Fund" to "Operation and Maintenance, Defense-Wide" may be used, notwithstanding any other provision of law, for payments to reimburse Pakistan, Jordan, and other key cooperating nations, for logistical and military support provided, or to be provided, to United States military operations in connection with military action in Iraq and the global war on terrorism: *Provided,* That such payments may be made in such amounts as the Secretary of Defense, with the concurrence of the Secretary of State and in consultation with the Director of the Office of Management and Budget, may determine, in his discretion, based on documentation determined by the Secretary of Defense to adequately account for the support provided, and such determination is final and conclusive upon the accounting officers of the United States, and 15 days following notification to the appropriate congressional committees: *Provided further,* That unless expressly provided in an appropriations Act enacted after the date of enactment of this Act, and notwithstanding any other provision of law, no funds other than those additional amounts provided herein shall be made available for any payments intended to fulfill the purposes specified in this section and similar reimbursement authorities expressly provided in section 304 of Public Law 107–117 and within the "Operation and Maintenance, Defense-Wide" appropriation account enacted in Public Law 107–206: *Provided further,* That not later than July 1, 2003, the Secretary of Defense shall submit a report in writing to the Committees on Appropriations that includes a financial plan for the obligation and expenditure of such funds: *Provided further,* That if such report is not provided to the Committees on Appropriations by the date specified in the previous proviso, unobligated balances of funds that are available from the amounts provided in this chapter for the purposes specified under this section shall be returned to the Treasury of the United States: *Provided further,* That, beginning not later than July 1, 2003, the Secretary of Defense shall provide quarterly reports to the Committees on Appropriations on the uses of funds made available for payments to Pakistan, Jordan, and other key cooperating nations for logistical and military support provided to United States military operations in connection with military action in and around Iraq and the global war on terrorism.

(TRANSFER OF FUNDS)

SEC. 1311. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may transfer between appropriations up to $2,000,000,000 of the funds made available in this chapter: *Provided,* That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority: *Provided further,* That the transfer authority provided in this section is in addition to any other transfer authority available to the Department of Defense: *Provided further,* That the authority in this section is subject to the same terms and conditions as the authority provided in section 8005 of Public Law 107–248 except for the fourth proviso.

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(TRANSFER OF FUNDS)

SEC. 1313. As of October 31, 2003, all unobligated[4] balances of funds remaining in the "Defense Emergency Response Fund" shall be transferred to, and merged with, the "Iraq Freedom Fund", and shall be available for the same purposes, and under the same terms and conditions, as funds appropriated to the "Iraq Freedom Fund" in this chapter.

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CHAPTER 5

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OTHER BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

IRAQ RELIEF AND RECONSTRUCTION FUND[5]

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses for humanitarian assistance in and around Iraq and to carry out the purposes of the Foreign Assistance Act of 1961 for rehabilitation and reconstruction in Iraq, there

[4] Sec. 1105(a) of Public Law 108–106 (117 Stat. 1214) inserted "unobligated" before "balances". Subsec. 1105(b) of that Act provided the following:

"(b) Effective November 1, 2003, adjustments to obligations that before such date would have been properly chargeable to the Defense Emergency Response Fund shall be charged to any current appropriations account of the Department of Defense available for the same purpose.".

[5] In a memorandum of May 6, 2003 (68 F.R. 25275), as amended by a memorandum signed by the President on December 5, 2003 (69 F.R. 1645), the President stated the following:

"The functions of the President under the heading 'Iraq Relief and Reconstruction Fund' in the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11), or in any subsequent appropriation under this heading, including with respect to apportionment, reimbursement, consultation, transfer of funds, retransfer of funds, and acceptance and crediting of contributions, are assigned to the Director of the Office of Management and Budget.

"In accordance with Presidential direction relating to Iraq relief and reconstruction, multiple agencies are deployed with the Coalition Provisional Authority (CPA) and are serving as implementing partners or executing agents for programs and projects. These agencies will identify funding requirements for such programs and projects through CPA. OMB will work with CPA to transfer funds to the appropriate implementing agency. The Director of OMB shall coordinate with the Secretary of Defense or his designee prior to apportioning funds. With respect to programs administered by the Department of State or the United States Agency for International Development, the Director of OMB shall coordinate with the Secretary of State or his designee prior to apportioning funds.".

is appropriated to the President, $2,475,000,000, to remain available until September 30, 2004, including for the costs of: (1) water/sanitation infrastructure; (2) feeding and food distribution; (3) supporting relief efforts related to refugees, internally displaced persons, and vulnerable individuals, including assistance for families of innocent Iraqi civilians who suffer losses as a result of military operations; (4) electricity; (5) healthcare; (6) telecommunications; (7) economic and financial policy; (8) education; (9) transportation; (10) rule of law and governance; (11) humanitarian demining; and (12) agriculture: *Provided,* That these funds shall be apportioned only to the Department of State, the United States Agency for International Development, the Department of the Treasury, the Department of Defense, and the Department of Health and Human Services, as appropriate, for expenses to meet such costs: *Provided further,* That funds appropriated under this heading shall be used to fully reimburse accounts administered by the Department of State, the Department of the Treasury and the United States Agency for International Development, not otherwise reimbursed from funds appropriated by this chapter, for obligations incurred for the purposes provided under this heading prior to enactment of this Act from funds appropriated for foreign operations, export financing, and related programs: *Provided further,* That prior to the initial apportionment of funds made available under this heading to any agency or department, the President, or his designee, shall consult with the Committees on Appropriations on plans for the use of the funds appropriated under this heading that will be used for assistance for Iraq: *Provided further,* That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further,* That the United States may accept from any person, foreign government, or international organization, and credit to this Fund, any contribution of money for such purposes: *Provided further,* That funds appropriated under this heading shall be available notwithstanding any other provision of law, including section 10 of Public Law 91–672 and section 15 of the State Department Basic Authorities Act of 1956: *Provided further,* That funds appropriated under this heading or transferred under provisions of this chapter or section 632 of the Foreign Assistance Act of 1961 that are made available for assistance for Iraq shall be subject to notification of the Committees on Appropriations, except that notifications shall be transmitted at least 5 days in advance of the obligation of funds.

ECONOMIC SUPPORT FUND

For an additional amount for "Economic Support Fund", $2,422,000,000, of which:

(1) not less than $700,000,000 shall be made available for assistance for Jordan;

(2) $300,000,000, to remain available until September 30, 2005, shall be made available only for grants for Egypt: *Provided,* That during the period beginning March 1, 2003, and ending September 30, 2005, loan guarantees may be made to

Egypt, the principal amount, any part of which is to be guaranteed, shall not exceed $2,000,000,000: *Provided further,* That the Government of Egypt will incur all the costs, as defined in section 502 of the Federal Credit Reform Act of 1990, as amended, associated with these loan guarantees, including any non-repayment exposure risk: *Provided further,* That all fees associated with these loan guarantees, including subsidy and administrative costs, shall be paid by the Government of Egypt to the Government of the United States: *Provided further,* That funds made available under this paragraph and other funds appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 and made available for assistance for Egypt may be used by the Government of Egypt to pay such fees to the United States Government: *Provided further,* That such guarantees shall constitute obligations, in accordance with the terms of such guarantees, of the United States and the full faith and credit of the United States is hereby pledged for full payment and performance of such obligations: *Provided further,* That the President shall determine the terms and conditions for issuing the economic assistance authorized by this paragraph and should take into consideration budgetary and economic reforms undertaken by Egypt: *Provided further,* That if the President determines that these terms and conditions have been breached, the President may suspend or terminate the provision of all or part of such economic assistance not yet outlayed under this paragraph;

(3) not to exceed $1,000,000,000, to remain available until September 30, 2005, for grants for Turkey: *Provided,* That during the period beginning March 1, 2003, and ending September 30, 2005, direct loans or loan guarantees may be made to Turkey, the principal amount of direct loans or loans, any part of which is to be guaranteed, shall not exceed $8,500,000,000: *Provided further,* That the Government of Turkey will incur all the costs, as defined in section 502 of the Federal Credit Reform Act of 1990, as amended, associated with these loans or loan guarantees, including any non-repayment exposure risk: *Provided further,* That all fees associated with these loans or loan guarantees, including subsidy and administrative costs, shall be paid by the Government of Turkey to the Government of the United States: *Provided further,* That funds made available under this paragraph and other funds appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 and made available for assistance for Turkey may be used by the Government of Turkey to pay such fees to the United States Government: *Provided further,* That such guarantees shall constitute obligations, in accordance with the terms of such guarantees, of the United States and the full faith and credit of the United States is hereby pledged for the full payment and performance of such obligations: *Provided further,* That none of the funds made available by this paragraph may be made available for assistance for Turkey if the Secretary of State determines and reports to the Committees on Appropriations of the House and Senate, the Committee on

Foreign Relations of the Senate and Committee on International Relations of the House that the Government of Turkey is not cooperating with the United States in Operation Iraqi Freedom, including the facilitation of humanitarian assistance to Iraq, or has unilaterally deployed troops into northern Iraq: *Provided further,* That the President shall determine the terms and conditions for issuing the economic assistance authorized by this paragraph and should take into consideration budgetary and economic reforms undertaken by Turkey: *Provided further,* That if the President determines that these terms and conditions have been breached, the President may suspend or terminate the provision of all or part of such economic assistance not yet outlayed under this paragraph: *Provided further,* That any balance of funds not made available to Turkey under this paragraph shall be transferred to, and merged with, funds appropriated for "Iraq Relief and Reconstruction Fund";

(4) not less than $30,000,000 for the Philippines to further prospects for peace in Mindanao, and not less than $167,000,000 for assistance for Afghanistan: *Provided,* That of the funds appropriated under this heading, $10,000,000 should be made available for investigations and research into allegations of war crimes, crimes against humanity, or genocide committed by Saddam Hussein or other Iraqis, and for a contribution to an international tribunal to bring these individuals to justice;

(5) regional funds made available under this heading for assistance that are not specified in paragraphs (1) through (4) shall be subject to the regular notification procedures of the Committees on Appropriations; and

(6) unless otherwise specified herein, funds appropriated under this heading shall remain available until September 30, 2004.

LOAN GUARANTEES TO ISRAEL[6]

During the period beginning March 1, 2003, and ending September 30, 2007,[7] loan guarantees may be made available to Israel, guaranteeing 100 percent of the principal and interest on such loans, the principal amount, any part of which is to be guaranteed, not to exceed $9,000,000,000, of which up to $3,000,000,000 may be issued prior to October 1, 2003, or thereafter and of which $3,000,000,000 may be issued subsequent to September 30, 2004: *Provided,* That such guarantees shall constitute obligations, in accordance with the terms of such guarantees, of the United States and the full faith and credit of the United States is hereby pledged for the full payment and performance of such obligations: *Provided further,* That if less than the full amount of guarantees authorized

[6] In a memorandum of September 12, 2003 (68 F.R. 54969), the President delegated to the Secretary of State the functions conferred on the President under this heading.

[7] Sec. 534(p)(1) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), struck out "During the period beginning March 1, 2003, and ending September 30, 2005," and inserted in lieu thereof "During the period beginning March 1, 2003, and ending September 30, 2007,".

to be made available is issued prior to September 30, 2007,[8] the authority to issue the balance of such guarantees shall extend to the subsequent fiscal year: *Provided further,* That guarantees may be issued under this section only to support activities in the geographic areas which were subject to the administration of the Government of Israel before June 5, 1967: *Provided further,* That the amount of guarantees that may be issued shall be reduced by an amount equal to the amount extended or estimated to have been extended by the Government of Israel during the period from March 1, 2003, to the date of issue of the guarantee, for activities which the President determines are inconsistent with the objectives and understandings reached between the United States and the Government of Israel regarding the implementation of the loan guarantee program: *Provided further,* That the President shall submit a report to Congress no later than September 30 of each fiscal year during the pendency of the program specifying the amount calculated under the preceding proviso and that will be deducted from the amount of guarantees authorized to be issued in the next fiscal year: *Provided further,* That the interest rate for loans guaranteed under this heading may include a reasonable fee to cover the costs and fees incurred by the borrower in connection with this program or financing under this heading in the event the borrower elects not to finance such costs or fees out of loan principal: *Provided further,* That no appropriations under this heading are available for the subsidy costs for these loan guarantees: *Provided further,* That the Government of Israel will pay the cost, as defined in section 502 of the Federal Credit Reform Act of 1990, as amended, including any non-payment exposure risk, associated with the loan guarantees issued in any fiscal year, on a pro rata basis as each guarantee is issued during that year: *Provided further,* That all fees (as defined in section 601(e) of Public Law 102–391) associated with the loan guarantees shall be paid by the Government of Israel to the Government of the United States: *Provided further,* That funds made available for assistance to Israel under chapter 4 of part II of the Foreign Assistance Act of 1961, as amended, may be utilized by the Government of Israel to pay such fees to the United States Government: *Provided further,* That the President shall determine the terms and conditions for issuing guarantees, taking into consideration the budgetary and economic reforms undertaken by Israel: *Provided further,* That if the President determines that these terms and conditions have been breached, the President may suspend or terminate the provision of all or part of the loan guarantees not yet issued under this heading.

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GENERAL PROVISIONS, THIS CHAPTER

SEC. 1501. Any appropriation made available in this chapter under the headings "International Disaster Assistance", "United

[8] Sec. 534(p)(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), struck out "That if less than the full amount of guarantees authorized to be made available is issued prior to September 30, 2005," and inserted in lieu thereof "That if less than the full amount of guarantees authorized to be made available is issued prior to September 30, 2007,".

States Emergency Refugee and Migration Assistance Fund", "Nonproliferation, Anti-Terrorism, Demining and Related Programs", "Peacekeeping Operations", or "Iraq Relief and Reconstruction Fund" may be transferred between such appropriations for use for any of the purposes for which the funds in such receiving account may be used: *Provided,* That the total amount transferred from funds appropriated under these headings shall not exceed $100,000,000: *Provided further,* That the Secretary of State shall consult with the Committees on Appropriations prior to exercising the authority contained in this section: *Provided further,* That funds made available pursuant to the authority of this section shall be subject to the regular notification procedures of the Committees on Appropriations, except that notification shall be transmitted at least 5 days in advance of the obligations of funds.

SEC. 1502. Assistance or other financing under this chapter may be provided for Iraq notwithstanding any other provision of law: *Provided,* That the authority contained in this section shall not apply to section 553 of Public Law 108–7: *Provided further,* That funds made available for Iraq pursuant to this authority shall be subject to the regular reprogramming procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961, except that notification shall be transmitted at least 5 days in advance of obligation: *Provided further,* That the notification requirements of this section may be waived if failure to do so would pose a substantial risk to human health or welfare: *Provided further,* That in case of any such waiver, notification to the appropriate congressional committees, shall be provided as early as practicable, but in no event later than 3 days after taking the action to which such notification requirement was applicable, in the context of the circumstances necessitating such waiver: *Provided further,* That any notification provided pursuant to such a waiver shall contain an explanation of the emergency circumstances.

SEC. 1503.[9] The President may suspend the application of any provision of the Iraq Sanctions Act of 1990: *Provided,* That nothing in this section shall affect the applicability of the Iran-Iraq Arms Non-Proliferation Act of 1992 (Public Law 102–484), except that such Act shall not apply to humanitarian assistance and supplies: *Provided further,* That the President may make inapplicable with respect to Iraq section 620A of the Foreign Assistance Act of 1961 or any other provision of law that applies to countries that have

[9] Presidential Determination No. 2003–23 of May 7, 2003 (68 F.R. 26459), stated the following:

"* * * I hereby:

"(1) suspend the application of all of the provisions, other than section 586E, of the Iraq Sanctions Act of 1990, Public Law 101–513, and

"(2) make inapplicable with respect to Iraq section 620A of the Foreign Assistance Act of 1961, Public Law 87–195, as amended (the 'FAA'), and any other provision of law that applies to countries that have supported terrorism.

"In addition, I delegate the functions and authorities conferred upon the President by:

"(1) section 1503 of the Act to submit reports to the designated committees of the Congress to the Secretary of Commerce, or until such time as the principal licensing responsibility for the export to Iraq of items on the Commerce Control List has reverted to the Department of Commerce, to the Secretary of the Treasury; and,

"(2) section 1504 of the Act to the Secretary of State.".

supported terrorism: *Provided further,* That military equipment, including equipment[10] as defined by title XVI, section 1608(1)(A) of Public Law 102–484, shall not be exported under the authority of this section: *Provided further,* That section 307 of the Foreign Assistance Act of 1961 shall not apply with respect to programs of international organizations for Iraq: *Provided further,* That provisions of law that direct the United States Government to vote against or oppose loans or other uses of funds, including for financial or technical assistance, in international financial institutions for Iraq shall not be construed as applying to Iraq: *Provided further,* That the President shall submit a notification 5 days prior to exercising any of the authorities described in this section to the Committee on Appropriations of each House of the Congress, the Committee on Foreign Relations of the Senate, and the Committee on International Relations of the House of Representatives: *Provided further,* That not more than 60 days after enactment of this Act and every 90 days thereafter the President shall submit a report to the Committee on Appropriations of each House of the Congress, the Committee on Foreign Relations of the Senate, and the Committee on International Relations of the House of Representatives containing a summary of all licenses approved for export to Iraq of any item on the Commerce Control List contained in the Export Administration Regulations, 15 CFR Part 774, Supplement 1, including identification of end users of such items: *Provided further,* That the authorities contained in this section shall expire on September 30, 2004, or on the date of enactment of a subsequent Act authorizing assistance for Iraq and that specifically amends, repeals or otherwise makes inapplicable the authorities of this section, whichever occurs first.

SEC. 1504. Notwithstanding any other provision of law, the President may authorize the export to Iraq of any nonlethal military equipment controlled under the International Trafficking in Arms Regulations on the United States Munitions List established pursuant to section 38 of the Arms Export Control Act (22 U.S.C. 2778), if the President determines and notifies within 5 days prior to export the Committee on Appropriations of each House of the Congress, the Committee on Foreign Relations of the Senate, and the Committee on International Relations of the House of Representatives that the export of such nonlethal military equipment is in the national interest of the United States: *Provided,* That, subject to the notification requirements of this section, exports may be authorized of lethal military equipment designated by the Secretary of State for use by a reconstituted (or interim) Iraqi military or police force, and of small arms designated by the Secretary of State for use for private security purposes:[11] *Provided further,* That the authorities contained in this section shall expire on September 30, 2004, or on the date of enactment of a subsequent Act authorizing

[10] Sec. 2204 of Public Law 108–106 (117 Stat. 1230) struck out "equipment" and inserted in lieu thereof "equipment, including equipment".

[11] Sec. 2205 of Public Law 108–106 (117 Stat. 1230) amended and restated the first proviso, which formerly read as follows: "*Provided,* That the limitation regarding nonlethal military equipment shall not apply to military equipment designated by the Secretary of State for use by a reconstituted (or interim) Iraqi military or police force:".

assistance for Iraq and that specifically amends, repeals or otherwise makes inapplicable the authorities of this section, whichever occurs first.

SEC. 1505. Division E of Public Law 108–7, under the heading "Assistance for the Independent States of the Former Soviet Union", is amended in subsection (f) by: (1) striking "assistance for the Government" and inserting "assistance for the central Government"; and (2) striking "unless" and inserting "if"; and striking "not facilitated" and inserting "facilitated".

SEC. 1506.[12] REPORTS ON UNITED STATES STRATEGY FOR RELIEF AND RECONSTRUCTION IN IRAQ.

(a) INITIAL REPORT.—Not later than 45 days after the date of enactment of this Act, the President shall submit to the Committees on Appropriations a report on the United States strategy regarding activities related to post-conflict security, humanitarian assistance, governance, and reconstruction in Iraq that are undertaken as a result of Operation Iraqi Freedom. The report shall include the following:

(1) The distribution of duties and responsibilities regarding such activities among agencies of the United States Government, including the Department of State, the United States Agency for International Development, and the Department of Defense (to be provided within 30 days of enactment of this Act).

(2) A detailed plan describing the roles and responsibilities of foreign governments and international organizations including the United Nations, in carrying out activities related to post-conflict security, humanitarian assistance, governance, and reconstruction in Iraq.

(3) A strategy for coordinating such activities among the United States Government, foreign governments and international organizations, including the United Nations.

(4) An initial estimate of the costs expected to be associated with such activities.

(5) A strategy for distributing the responsibility for paying costs associated with reconstruction activities in Iraq among the United States, foreign governments, and international organizations, including the United Nations, and an estimate of the revenue expected to be generated by Iraqi oil production that could be used to pay such costs.

(b) SUBSEQUENT REPORTS.—Not later than 90 days after the date of enactment of this Act, and every 90 days thereafter until September 30, 2004, the President shall submit to the Committees on Appropriations a report that contains:

(1) A list of significant United States Government-funded activities related to reconstruction in Iraq that, during the 90-day period ending 15 days prior to the date the report is submitted to the Committees on Appropriations—

(A) were initiated; or

(B) were completed.

(2) A list of the significant activities related to reconstruction in Iraq that the President anticipates initiating during the 90-

[12] 22 U.S.C. 2151 note.

day period beginning on the date the report is submitted to the Committees on Appropriations, including:

(A) Cost estimates for carrying out the proposed activities.

(B) The source of the funds that will be used to pay such costs.

(3) Updated strategies, if changes are proposed regarding matters included in the reports required under subsection (a).

(4) An updated list of the financial pledges and contributions made by foreign governments or international organizations to fund activities related to humanitarian, governance, and reconstruction assistance in Iraq.

* * * * * * *

TITLE VI—GENERAL PROVISIONS—THIS ACT

SEC. 6001. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

This Act may be cited as the "Emergency Wartime Supplemental Appropriations Act, 2003".

(2) Iraq Liberation Act of 1998 [1]

Public Law 105–338 [H.R. 4655], 112 Stat. 3178, approved October 31, 1998; amended by Public Law 108–11 [Emergency Wartime Supplemental Appropriations Act, 2003; H.R. 1559], 117 Stat. 559, approved April 16, 2003

AN ACT To establish a program to support a transition to democracy in Iraq.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Iraq Liberation Act of 1998".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) On September 22, 1980, Iraq invaded Iran, starting an 8 year war in which Iraq employed chemical weapons against Iranian troops and ballistic missiles against Iranian cities.

(2) In February 1988, Iraq forcibly relocated Kurdish civilians from their home villages in the Anfal campaign, killing an estimated 50,000 to 180,000 Kurds.

(3) On March 16, 1988, Iraq used chemical weapons against Iraqi Kurdish civilian opponents in the town of Halabja, killing an estimated 5,000 Kurds and causing numerous birth defects that affect the town today.

(4) On August 2, 1990, Iraq invaded and began a 7 month occupation of Kuwait, killing and committing numerous abuses against Kuwaiti civilians, and setting Kuwait's oil wells ablaze upon retreat.

(5) Hostilities in Operation Desert Storm ended on February 28, 1991, and Iraq subsequently accepted the ceasefire conditions specified in United Nations Security Council Resolution 687 (April 3, 1991) requiring Iraq, among other things, to disclose fully and permit the dismantlement of its weapons of mass destruction programs and submit to long-term monitoring and verification of such dismantlement.

(6) In April 1993, Iraq orchestrated a failed plot to assassinate former President George Bush during his April 14–16, 1993, visit to Kuwait.

(7) In October 1994, Iraq moved 80,000 troops to areas near the border with Kuwait, posing an imminent threat of a renewed invasion of or attack against Kuwait.

(8) On August 31, 1996, Iraq suppressed many of its opponents by helping one Kurdish faction capture Irbil, the seat of the Kurdish regional government.

(9) Since March 1996, Iraq has systematically sought to deny weapons inspectors from the United Nations Special Commission on Iraq (UNSCOM) access to key facilities and documents,

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

has on several occasions endangered the safe operation of UNSCOM helicopters transporting UNSCOM personnel in Iraq, and has persisted in a pattern of deception and concealment regarding the history of its weapons of mass destruction programs.

(10) On August 5, 1998, Iraq ceased all cooperation with UNSCOM, and subsequently threatened to end long-term monitoring activities by the International Atomic Energy Agency and UNSCOM.

(11) On August 14, 1998, President Clinton signed Public Law 105–235, which declared that "the Government of Iraq is in material and unacceptable breach of its international obligations" and urged the President "to take appropriate action, in accordance with the Constitution and relevant laws of the United States, to bring Iraq into compliance with its international obligations.".

(12) On May 1, 1998, President Clinton signed Public Law 105–174, which made $5,000,000 available for assistance to the Iraqi democratic opposition for such activities as organization, training, communication and dissemination of information, developing and implementing agreements among opposition groups, compiling information to support the indictment of Iraqi officials for war crimes, and for related purposes.

SEC. 3. SENSE OF THE CONGRESS REGARDING UNITED STATES POLICY TOWARD IRAQ.

It should be the policy of the United States to support efforts to remove the regime headed by Saddam Hussein from power in Iraq and to promote the emergence of a democratic government to replace that regime.

SEC. 4. ASSISTANCE TO SUPPORT A TRANSITION TO DEMOCRACY IN IRAQ.

(a) AUTHORITY TO PROVIDE ASSISTANCE.—The President may provide to the Iraqi democratic opposition organizations designated in accordance with section 5 the following assistance:

(1)[2] BROADCASTING ASSISTANCE.—(A) Grant assistance to such organizations for radio and television broadcasting by such organizations to Iraq.

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[2] Chapter 2 of title I of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11; 117 Stat. 562), provided the following:

"INTERNATIONAL BROADCASTING OPERATIONS

"For an additional amount for 'International Broadcasting Operations' for activities related to the Middle East Television Network broadcasting to the Middle East and radio broadcasting to Iraq, $30,500,000, to remain available until September 30, 2004.".

Previously, title II of Public Law 105–174 (112 Stat. 70) provided the following:

"UNITED STATES INFORMATION AGENCY

"INTERNATIONAL BROADCASTING OPERATIONS

"For an additional amount for 'International Broadcasting Operations', $5,000,000, to remain available until September 30, 1999, for a grant to Radio Free Europe/Radio Liberty for surrogate radio broadcasting to the Iraqi people: *Provided*, That such broadcasting shall be designated 'Radio Free Iraq': *Provided further*, That within 30 days of enactment into law of this Act the Broadcasting Board of Governors shall submit a detailed report to the appropriate committees of Congress on plans to establish a surrogate broadcasting service to Iraq: *Provided further*, That such amount is 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, as amended: *Provided further*, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of

(B) There is authorized to be appropriated to the United States Information Agency $2,000,000 for fiscal year 1999 to carry out this paragraph.

(2)[3] MILITARY ASSISTANCE.—(A) The President is authorized to direct the drawdown of defense articles from the stocks of the Department of Defense, defense services of the Department of Defense, and military education and training for such organizations.

(B) The aggregate value (as defined in section 644(m) of the Foreign Assistance Act of 1961) of assistance provided under this paragraph may not exceed $97,000,000.

(C)[4] The aggregate value (as defined in section 644(m) of the Foreign Assistance Act of 1961) of assistance provided under this paragraph may not exceed $86,500,000 in fiscal year 2003.

(b)[5] HUMANITARIAN ASSISTANCE.—The Congress urges the President to use existing authorities under the Foreign Assistance Act of 1961 to provide humanitarian assistance to individuals living in areas of Iraq controlled by organizations designated in accordance with section 5, with emphasis on addressing the needs of individuals who have fled to such areas from areas under the control of the Saddam Hussein regime.

(c) RESTRICTION ON ASSISTANCE.—No assistance under this section shall be provided to any group within an organization designated in accordance with section 5 which group is, at the time

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the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress.".

[3] In Presidential Determination No. 2000–5 of October 29, 1999 (64 F.R. 60651), the President directed "the furnishing of up to $5 million in defense articles from the stocks of the Department of Defense, defense services of the Department of Defense, and military education and training in order to provide assistance to the Iraqi National Congress.".

[4] Sec. 1309(b) of Public Law 108–11 (117 Stat. 568) added para. (C).

[5] For FY 1998, sec. 10008 of the 1998 Supplemental Appropriations and Rescission Act (Public Law 105–174; 112 Stat. 58) provided $5 million for ESF assistance under Public Law 105–118 (that year's foreign assistance appropriations act) to the Iraqi democratic opposition.

For FY 1999, sec. 590 of the foreign assistance appropriations act (Public Law 105–277; 112 Stat. 2681) provided not less than $8 million to the Iraqi democratic opposition, of which not less than $3 million was to be made available as a grant to the Iraqi National Congress.

For FY 2000, sec. 580 of the foreign assistance appropriations act (Public Law 106–113; 113 Stat. 1535) provided $10 million to support efforts to bring about political transition to Iraq, of which $8 million was to be made available to Iraqi opposition groups designated under this Act, and another $2 million for groups and activities seeking the prosecution of Saddam Hussein and other Iraqi government officials for war crimes.

For FY 2001, sec. 575 of the foreign assistance appropriations act (Public Law 106–429; 114 Stat. 1900) provided not less than $25 million for programs benefiting the Iraqi people, of which not less than $12 million should be made available for humanitarian assistance administered through the Iraqi National Congress or the Iraqi National Congress Support Foundation, and not less than $6 million should be made available to the same organizations for broadcasting, and not more than $2 million should be made available for groups and activities seeking the prosecution of Saddam Hussein and other Iraqi government officials for war crimes.

For FY 2002, sec. 580 of the foreign assistance appropriations act (Public Law 107–115; 115 Stat. 2166) provided an undesignated amount of Economic Support Funds to be made available for programs benefiting the Iraqi people and to support efforts to bring about a political transition in Iraq.

For FY 2003, sec. 567 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 206), provided the following:

"IRAQ

"SEC. 567. Notwithstanding any other provision of law, funds appropriated under the heading 'Economic Support Fund' may be made available for programs benefitting the Iraqi people and to support efforts to bring about a political transition in Iraq: *Provided,* That none of the funds made available pursuant to the authorities provided in this section may be made available to any organization to reimburse or pay for costs incurred by such organization in prior fiscal years: *Provided further,* That funds made available under this section are made available subject to the regular notification procedures of the Committees on Appropriations.".

the assistance is to be provided, engaged in military cooperation with the Saddam Hussein regime.

(d) NOTIFICATION REQUIREMENT.—The President shall notify the congressional committees specified in section 634A of the Foreign Assistance Act of 1961 at least 15 days in advance of each obligation of assistance under this section in accordance with the procedures applicable to reprogramming notifications under section 634A.

(e) REIMBURSEMENT RELATING TO MILITARY ASSISTANCE.—

(1) IN GENERAL.—Defense articles, defense services, and military education and training provided under subsection (a)(2) shall be made available without reimbursement to the Department of Defense except to the extent that funds are appropriated pursuant to paragraph (2).

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the President for each of the fiscal years 1998 and 1999 such sums as may be necessary to reimburse the applicable appropriation, fund, or account for the value (as defined in section 644(m) of the Foreign Assistance Act of 1961) of defense articles, defense services, or military education and training provided under subsection (a)(2).

(f) AVAILABILITY OF FUNDS.—(1) Amounts authorized to be appropriated under this section are authorized to remain available until expended.

(2) Amounts authorized to be appropriated under this section are in addition to amounts otherwise available for the purposes described in this section.

(g) AUTHORITY TO PROVIDE ASSISTANCE.—Activities under this section (including activities of the nature described in subsection (b)) may be undertaken notwithstanding any other provision of law.

SEC. 5.[6] DESIGNATION OF IRAQI DEMOCRATIC OPPOSITION ORGANIZATION.

(a) INITIAL DESIGNATION.—Not later than 90 days after the date of the enactment of this Act, the President shall designate one or more Iraqi democratic opposition organizations that the President determines satisfy the criteria set forth in subsection (c) as eligible to receive assistance under section 4.

(b) DESIGNATION OF ADDITIONAL ORGANIZATIONS.—At any time subsequent to the initial designation pursuant to subsection (a), the President may designate one or more additional Iraqi democratic opposition organizations that the President determines satisfy the criteria set forth in subsection (c) as eligible to receive assistance under section 4.

(c) CRITERIA FOR DESIGNATION.—In designating an organization pursuant to this section, the President shall consider only organizations that—

(1) include a broad spectrum of Iraqi individuals, groups, or both, opposed to the Saddam Hussein regime; and

[6] In Presidential Determination No. 99–13 of February 4, 1999 (64 F.R. 6781), the President determined "that each of the following groups is a democratic opposition organization and that each satisfies the criteria set forth in section 5(c) of the Act: the Iraqi National Accord, the Iraqi National Congress, the Islamic Movement of Iraqi Kurdistan, the Kurdistan Democratic Party, the Movement for Constitutional Monarchy, the Patriotic Union of Kurdistan, and the Supreme Council for the Islamic Revolution in Iraq. I hereby designate each of these organizations as eligible to receive assistance under section 4 of the Act.".

(2) are committed to democratic values, to respect for human rights, to peaceful relations with Iraq's neighbors, to maintaining Iraq's territorial integrity, and to fostering cooperation among democratic opponents of the Saddam Hussein regime.

(d) NOTIFICATION REQUIREMENT.—At least 15 days in advance of designating an Iraqi democratic opposition organization pursuant to this section, the President shall notify the congressional committees specified in section 634A of the Foreign Assistance Act of 1961 of his proposed designation in accordance with the procedures applicable to reprogramming notifications under section 634A.

SEC. 6. WAR CRIMES TRIBUNAL FOR IRAQ.

Consistent with section 301 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138), House Concurrent Resolution 137, 105th Congress (approved by the House of Representatives on November 13, 1997), and Senate Concurrent Resolution 78, 105th Congress (approved by the Senate on March 13, 1998), the Congress urges the President to call upon the United Nations to establish an international criminal tribunal for the purpose of indicting, prosecuting, and imprisoning Saddam Hussein and other Iraqi officials who are responsible for crimes against humanity, genocide, and other criminal violations of international law.

SEC. 7. ASSISTANCE FOR IRAQ UPON REPLACEMENT OF SADDAM HUSSEIN REGIME.

It is the sense of the Congress that once the Saddam Hussein regime is removed from power in Iraq, the United States should support Iraq's transition to democracy by providing immediate and substantial humanitarian assistance to the Iraqi people, by providing democracy transition assistance to Iraqi parties and movements with democratic goals, and by convening Iraq's foreign creditors to develop a multilateral response to Iraq's foreign debt incurred by Saddam Hussein's regime.

SEC. 8. RULE OF CONSTRUCTION.

Nothing in this Act shall be construed to authorize or otherwise speak to the use of United States Armed Forces (except as provided in section 4(a)(2)) in carrying out this Act.

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

Title XVI of the National Defense Authorization Act for Fiscal Year 1993 [Public Law 102–484; H.R. 5006], 106 Stat. 2315 at 2571, approved October 23, 1992; amended by Public Law 104–106 [National Defense Authorization Act for Fiscal Year 1996; S. 1124], 110 Stat. 186, approved February 10, 1996; and by Public Law 107–228 [Foreign Relations Authorization Act, Fiscal Year 2003; H.R. 1646], 116 Stat. 1350, approved September 30, 2002

TITLE XVI—IRAN-IRAQ ARMS NON-PROLIFERATION ACT OF 1992 [1]

SEC. 1601. SHORT TITLE.

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

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[1] 50 U.S.C. 1701 note. In a September 27, 1994, memorandum for the Secretary of State, the President delegated all functions vested in the President by this title to the Secretary of State, in consultation with the Secretaries of Defense, Treasury, Commerce, the Director of the Arms Control and Disarmament Agency, and other heads of appropriate departments and agencies (59 F.R. 50685).

Secs. 1503 and 1504 of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11; 117 Stat. 559), as amended, provided the following:

"SEC. 1503. The President may suspend the application of any provision of the Iraq Sanctions Act of 1990: *Provided,* That nothing in this section shall affect the applicability of the Iran-Iraq Arms Non-Proliferation Act of 1992 (Public Law 102–484), except that such Act shall not apply to humanitarian assistance and supplies: *Provided further,* That the President may make inapplicable with respect to Iraq section 620A of the Foreign Assistance Act of 1961 or any other provision of law that applies to countries that have supported terrorism: *Provided further,* That military equipment, including equipment as defined by title XVI, section 1608(1)(A) of Public Law 102–484, shall not be exported under the authority of this section: *Provided further,* That section 307 of the Foreign Assistance Act of 1961 shall not apply with respect to programs of international organizations for Iraq: *Provided further,* That provisions of law that direct the United States Government to vote against or oppose loans or other uses of funds, including for financial or technical assistance, in international financial institutions for Iraq shall not be construed as applying to Iraq: *Provided further,* That the President shall submit a notification 5 days prior to exercising any of the authorities described in this section to the Committee on Appropriations of each House of the Congress, the Committee on Foreign Relations of the Senate, and the Committee on International Relations of the House of Representatives: *Provided further,* That not more than 60 days after enactment of this Act and every 90 days thereafter the President shall submit a report to the Committee on Appropriations of each House of the Congress, the Committee on Foreign Relations of the Senate, and the Committee on International Relations of the House of Representatives containing a summary of all licenses approved for export to Iraq of any item on the Commerce Control List contained in the Export Administration Regulations, 15 CFR Part 774, Supplement 1, including identification of end users of such items: *Provided further,* That the authorities contained in this section shall expire on September 30, 2004, or on the date of enactment of a subsequent Act authorizing assistance for Iraq and that specifically amends, repeals or otherwise makes inapplicable the authorities of this section, whichever occurs first.

"SEC. 1504. Notwithstanding any other provision of law, the President may authorize the export to Iraq of any nonlethal military equipment controlled under the International Trafficking in Arms Regulations on the United States Munitions List established pursuant to section 38 of the Arms Export Control Act (22 U.S.C. 2778), if the President determines and notifies within 5 days prior to export the Committee on Appropriations of each House of the Congress, the Committee on Foreign Relations of the Senate, and the Committee on International Relations of the House of Representatives that the export of such nonlethal military equipment is in the national interest of the United States: *Provided,* That, subject to the notification requirements of this section, exports may be authorized of lethal military equipment designated by the Secretary of State for use by a reconstituted (or interim) Iraqi military or police force, and of small arms designated by the Secretary of State for use for private security purposes: *Provided further,* That the authorities contained in this section shall expire on September 30, 2004, or on the date of

SEC. 1602. UNITED STATES POLICY.

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

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

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

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

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

The sanctions against Iraq specified in paragraphs (1) through (4) of section 586G(a) of the Iraq Sanctions Act of 1990 (as contained in Public Law 101–513),[2] including denial of export licenses for United States persons and prohibitions on United States Government sales, shall be applied to the same extent and in the same manner with respect to Iran.

SEC. 1604. SANCTIONS AGAINST CERTAIN PERSONS.

(a) PROHIBITION.—If any person transfers or retransfers goods or technology so as to contribute knowingly and materially to the efforts by Iran or Iraq (or any agency or instrumentality of either such country) to acquire chemical, biological, or nuclear weapons

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enactment of a subsequent Act authorizing assistance for Iraq and that specifically amends, repeals or otherwise makes inapplicable the authorities of this section, whichever occurs first.".

Presidential Determination No. 2003–23 of May 7, 2003 (68 F.R. 26459), stated the following:

"* * * I hereby:

"(1) suspend the application of all of the provisions, other than section 586E, of the Iraq Sanctions Act of 1990, Public Law 101–513, and

"(2) make inapplicable with respect to Iraq section 620A of the Foreign Assistance Act of 1961, Public Law 87–195, as amended (the 'FAA'), and any other provision of law that applies to countries that have supported terrorism.

"In addition, I delegate the functions and authorities conferred upon the President by:

"(1) section 1503 of the Act to submit reports to the designated committees of the Congress to the Secretary of Commerce, or until such time as the principal licensing responsibility for the export to Iraq of items on the Commerce Control List has reverted to the Department of Commerce, to the Secretary of the Treasury; and,

"(2) section 1504 of the Act to the Secretary of State.".

[2] For text of the Iraq Sanctions Act of 1990, see beginning at page 40.

or[3] to acquire destabilizing numbers and types of advanced conventional weapons, then the sanctions described in subsection (b) shall be imposed.

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

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

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

SEC. 1605. SANCTIONS AGAINST CERTAIN FOREIGN COUNTRIES.

(a) PROHIBITION.—If the President determines that the government of any foreign country transfers or retransfers goods or technology so as to contribute knowingly and materially to the efforts by Iran or Iraq (or any agency or instrumentality of either such country) to acquire chemical, biological, or nuclear weapons or[4] to acquire destabilizing numbers and types of advanced conventional weapons, then—

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 1606. WAIVER.

The President may waive the requirement to impose a sanction described in section 1603, in the case of Iran, or a sanction described in section 1604(b) or 1605(b), in the case of Iraq and Iran, 15 days after the President determines and so reports to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs[5] of the House of Representatives that it is essential to the national interest of the United States to exercise such waiver authority. Any such report shall provide a specific and detailed rationale for such determination.

SEC. 1607. REPORTING REQUIREMENT.

(a)[6] * * * [Repealed—2002]

(b) REPORT ON INDIVIDUAL TRANSFERS.—Whenever the President determines that a person or foreign government has made a transfer which is subject to any sanction under this title, the President shall, within 30 days after such transfer, submit to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs[5] of the House of Representatives a report—

[5] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. Sec. 1(a)(5) of that Act provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives. The Committee on National Security subsequently returned to the name "Committee on Armed Services"; see sec. 1067 of Public Law 106–65 (113 Stat. 774).

[6] Sec. 1308(g)(1)(C) of the Security Assistance Act of 2002 (division B of Public Law 107–228; 116 Stat. 1441) struck out subsec. (a), which had required the President to file an annual report with the Committees on Armed Services, Foreign Relations and International Relations accounting for all transfers or retransfers made by any person of foreign government which would be subject to sanctions under this Act.

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

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

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

SEC. 1608. DEFINITIONS.

For purposes of this title:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"(i) urgent humanitarian assistance or medicine, and

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

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

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

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

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

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

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

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

SECTION 1.[1] SHORT TITLE

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

SEC. 2. TABLE OF CONTENTS * * *

SEC. 3.[1] DEFINITIONS

For the purposes of this Act:

(1) The term "Operation Desert Storm" means operations of United States Armed Forces conducted as a consequence of the invasion of Kuwait by Iraq (including operations known as Operation Desert Shield, Operation Desert Storm, and Operation Provide Comfort).[2]

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

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

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

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

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

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

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

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

SEC. 101.[3] FUNDS IN THE DEFENSE COOPERATION ACCOUNT

(a) AUTHORIZATION OF APPROPRIATION.—During fiscal years 1991, 1992, and 1993,[4] there is authorized to be appropriated to the Department of Defense current and future balances in the Defense Cooperation Account established under section 2608 of title 10, United States Code.

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

(1) transfer by the Secretary of Defense to fiscal years 1991, 1992, and 1993[4] appropriation accounts of the Department of Defense or Coast Guard for incremental costs associated with Operation Desert Storm; and

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

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

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

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

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

"(2) NAVY.—For the Navy, $30,000,000.

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

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

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

"(1) ARMY.—For the Army, $29,300,000.

"(2) NAVY.—For the Navy, $35,300,000.

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

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

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

"SEC. 1204. RELATIONSHIP TO OTHER AUTHORIZATIONS.

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

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

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

SEC. 102. PERSIAN GULF REGIONAL DEFENSE FUND [5]

(a) ESTABLISHMENT OF ACCOUNT.—There is established in the Treasury of the United States a working capital account for the Department of Defense to be known as the "Persian Gulf Regional Defense Fund".[5]

(b) AUTHORIZATION OF APPROPRIATIONS.—During fiscal years 1991 and 1992,[4] there is authorized to be appropriated to the Persian Gulf Regional Defense Fund [5] the sum of $15,000,000,000.

(c) USE OF FUNDS.—Funds appropriated pursuant to subsection (b) shall be available only for transfer by the Secretary of Defense to fiscal years 1991, 1992, and 1993 [4] appropriation accounts of the Department of Defense or Coast Guard for the incremental costs associated with Operation Desert Storm. Such funds may be used for that purpose only to the extent that funds are not available in the Defense Cooperation Account for transfer for such incremental costs.

(d) REPLENISHMENT OF ACCOUNT.—Amounts transferred from the Persian Gulf Regional Defense Fund [5] shall be replenished from funds available in the Defense Cooperation Account to the extent that funds are available in the Defense Cooperation Account. Whenever the balance in the Persian Gulf Regional Defense Fund [5] is less than the amount appropriated to that account pursuant to this section, the Secretary shall transfer from the Defense Cooperation Account such funds as become available to the account to replenish the Persian Gulf Regional Defense Fund [5] before making any transfer of such funds under sections 101 and 102.

(e) REVERSION OF BALANCE UPON TERMINATION OF ACCOUNT.—Any balance in the Persian Gulf Regional Defense Fund [5] at the time of the termination of the account shall revert to the general fund of the Treasury.

SEC. 103. ADDITIONAL TRANSFER AUTHORITY

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

SEC. 104. ADMINISTRATION OF TRANSFERS

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

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

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

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

"PERSIAN GULF REGIONAL DEFENSE FUND

"(RESCISSION)

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

SEC. 105.[6] NOTICE TO CONGRESS OF TRANSFERS

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

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

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

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

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

(4) In the case of a transfer from the Persian Gulf Regional Defense Fund[5] established under section 102, an explanation of the reasons why funds are not available in the Defense Cooperation Account for such transfer.

SEC. 106. MONTHLY REPORTS ON TRANSFERS

Not later than seven days after the end of each month in fiscal years 1991, 1992, and 1993,[4] the Secretary of Defense shall submit to the congressional defense committees and the Comptroller General of the United States a detailed report on the cumulative total amount of the transfers made under the authority of this title through the end of that month.

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

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SEC. 203. AUTHORIZATION FROM DEFENSE COOPERATION ACCOUNT

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

(b) USE OF FUNDS.—Funds appropriated to the Persian Gulf Regional Defense Fund[5] pursuant to section 102(b) may be used for the purposes described in subsection (a) to the extent provided in section 102(c).

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

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

SEC. 204. CONFORMING REPEAL

Section 1117 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1637)[7] is repealed.

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TITLE IV—REPORTS ON FOREIGN CONTRIBUTIONS AND THE COSTS OF OPERATION DESERT STORM[8]

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

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

(b) COSTS OF OPERATION DESERT STORM.—

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

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

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

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

(A) are nonrecurring costs;

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

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

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

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

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

(3) PERSONNEL.—Personnel costs, including pay and allowances of members of the reserve components of the Armed Forces called or ordered to active duty and increased pay and

[7] 10 U.S.C. 115 note. Sec. 1117 of Public Law 101–510, relating to end strength flexibility, may be found at 104 Stat. 1637.

[8] 10 U.S.C. 113 note.

allowances of members of the regular components of the Armed Forces incurred because of deployment in connection with Operation Desert Storm.

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

(5) OPERATING SUPPORT.—Operating support costs, including equipment support costs, costs associated with increased operational tempo, spare parts, stock fund purchases, communications, and equipment maintenance.

(6) FUEL.—Fuel costs.

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

(8) MILITARY CONSTRUCTION.—Military construction costs.

(d) CONTRIBUTIONS TO THE UNITED STATES.—

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

(A) Cash payments pledged.

(B) Cash payments received.

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

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

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

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

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

(e) SUBMISSION OF REPORTS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) to any United Nations organization,

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

(C) to the extent the Secretary of State considers appropriate, to other international or nongovernmental organizations, for the purpose of dealing with consequences of the Persian Gulf crisis (including contributions for such

purposes as furnishing humanitarian assistance for displaced persons or furnishing assistance for responding to oil spills), and the value and nature of such contributions received by each such organization.

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

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

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

(c) SUBMISSION OF REPORTS.—

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

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

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

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

(d) DEFINITIONS.—In this section:

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

(2) The term "Persian Gulf crisis" means the military conflict, the United Nations Security Council embargo against Iraq, and other consequences associated with Iraq's invasion

and occupation of Kuwait and its failure to comply with the resolutions of the Security Council.

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

SEC. 403. FORM OF REPORTS

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

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

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

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

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

(1) The military objectives of the multinational coalition.

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

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

(4) The conduct of military operations.

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

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

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

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

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

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

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

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

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

(A) The readiness and activation of such forces.

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

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

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

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

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

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

(A) Taking of hostages.

(B) Treatment of civilians in occupied territory.

(C) Collateral damage and civilian casualties.

(D) Treatment of prisoners of war.

(E) Repatriation of prisoners of war.

(F) Use of ruses and acts of perfidy.

(G) War crimes.

(H) Environmental terrorism.

(I) Conduct of neutral nations.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

TITLE VI—GENERAL PROVISIONS

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

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

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

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

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

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

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

(b) SENSE OF CONGRESS CONCERNING SOURCE SELECTION FOR KUWAIT CONTRACTS.—It is the sense of Congress that the Army

Corps of Engineers and other Federal agencies should award contracts for the rebuilding of Kuwait, and, in recommending business firms to the Government of Kuwait for the award by it of such contracts, should encourage the Government of Kuwait to award such contracts, in accordance with the following priority:

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

(2) Second, to other United States firms.

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

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

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

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

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

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

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

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

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

(f)[9] * * * [Repealed—1995]

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

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

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

SEC. 608.[10] WITHHOLDING OF PAYMENTS TO INDIRECT-HIRE CIVILIAN PERSONNEL OF NONPAYING PLEDGING NATIONS

(a) GENERAL RULE.—Effective as of the end of the six-month period beginning on the date of the enactment of this Act, the Secretary of Defense shall withhold payments to any nonpaying pledging nation that would otherwise be paid as reimbursements for expenses of indirect-hire civilian personnel of the Department of Defense in that nation.

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

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

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

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

SEC. 801. AUTHORIZATION OF SUPPLEMENTAL APPROPRIATIONS FOR OPERATING EXPENSES

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

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SEC. 803. APPLICABILITY OF RECURRING GENERAL PROVISIONS

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

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

with respect to the authorizations provided in title XXXI of such Act.

* * * * * * *

(5) Iraq Sanctions Act of 1990 [1]

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

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

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

* * * * * * *

TITLE V—GENERAL PROVISIONS

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IRAQ SANCTIONS ACT OF 1990

SEC. 586. SHORT TITLE.

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

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[1] Presidential Determination No. 2003–23 of May 7, 2003 (68 F.R. 26459), stated the following:

"* * * I hereby:

"(1) suspend the application of all of the provisions, other than section 586E, of the Iraq Sanctions Act of 1990, Public Law 101–513, and

"(2) make inapplicable with respect to Iraq section 620A of the Foreign Assistance Act of 1961, Public Law 87–195, as amended (the 'FAA'), and any other provision of law that applies to countries that have supported terrorism.

"In addition, I delegate the functions and authorities conferred upon the President by:

"(1) section 1503 of the Act to submit reports to the designated committees of the Congress to the Secretary of Commerce, or until such time as the principal licensing responsibility for the export to Iraq of items on the Commerce Control List has reverted to the Department of Commerce, to the Secretary of the Treasury; and,

"(2) section 1504 of the Act to the Secretary of State.".

Secs. 1503 and 1504 of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11; 117 Stat. 559), as amended, provided the following:

"SEC. 1503. The President may suspend the application of any provision of the Iraq Sanctions Act of 1990: *Provided,* That nothing in this section shall affect the applicability of the Iran-Iraq Arms Non-Proliferation Act of 1992 (Public Law 102–484), except that such Act shall not apply to humanitarian assistance and supplies: *Provided further,* That the President may make inapplicable with respect to Iraq section 620A of the Foreign Assistance Act of 1961 or any other provision of law that applies to countries that have supported terrorism: *Provided further,* That military equipment, including equipment as defined by title XVI, section 1608(1)(A) of Public Law 102–484, shall not be exported under the authority of this section: *Provided further,* That section 307 of the Foreign Assistance Act of 1961 shall not apply with respect to programs of international organizations for Iraq: *Provided further,* That provisions of law that direct the United States Government to vote against or oppose loans or other uses of funds, including for financial or technical assistance, in international financial institutions for Iraq shall not be construed as applying to Iraq: *Provided further,* That the President shall submit a notification 5 days prior to exercising any of the authorities described in this section to the Committee on Appropriations of each House of the Congress, the Committee on Foreign Relations of the Senate, and the Committee on International Relations of the House of Representatives: *Provided further,* That not more than 60 days after enactment of this Act and every 90 days thereafter the President shall submit a report to the Committee on Appropriations of each House of the Congress,

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

The Congress—

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

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

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

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

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

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

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

SEC. 586B. CONSULTATIONS WITH CONGRESS.

The President shall keep the Congress fully informed, and shall consult with the Congress, with respect to current and anticipated events regarding the international crisis caused by Iraq's invasion of Kuwait, including with respect to United States actions.

SEC. 586C. TRADE EMBARGO AGAINST IRAQ.

(a) CONTINUATION OF EMBARGO.—Except as otherwise provided in this section, the President shall continue to impose the trade embargo and other economic sanctions with respect to Iraq and Kuwait that the United States is imposing, in response to Iraq's invasion of Kuwait, pursuant to Executive Orders Numbered 12724 and 12725 (August 9, 1990) and, to the extent they are still in effect, Executive Orders Numbered 12722 and 12723[2] (August 2, 1990).

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the Committee on Foreign Relations of the Senate, and the Committee on International Relations of the House of Representatives containing a summary of all licenses approved for export to Iraq of any item on the Commerce Control List contained in the Export Administration Regulations, 15 CFR Part 774, Supplement 1, including identification of end users of such items: *Provided further,* That the authorities contained in this section shall expire on September 30, 2004, or on the date of enactment of a subsequent Act authorizing assistance for Iraq and that specifically amends, repeals or otherwise makes inapplicable the authorities of this section, whichever occurs first.

"SEC. 1504. Notwithstanding any other provision of law, the President may authorize the export to Iraq of any nonlethal military equipment controlled under the International Trafficking in Arms Regulations on the United States Munitions List established pursuant to section 38 of the Arms Export Control Act (22 U.S.C. 2778), if the President determines and notifies within 5 days prior to export the Committee on Appropriations of each House of the Congress, the Committee on Foreign Relations of the Senate, and the Committee on International Relations of the House of Representatives that the export of such nonlethal military equipment is in the national interest of the United States: *Provided,* That, subject to the notification requirements of this section, exports may be authorized of lethal military equipment designated by the Secretary of State for use by a reconstituted (or interim) Iraqi military or police force, and of small arms designated by the Secretary of State for use for private security purposes: *Provided further,* That the authorities contained in this section shall expire on September 30, 2004, or on the date of enactment of a subsequent Act authorizing assistance for Iraq and that specifically amends, repeals or otherwise makes inapplicable the authorities of this section, whichever occurs first.".

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

Notwithstanding any other provision of law, no funds, credits, guarantees, or insurance appropriated or otherwise made available by this or any other Act for fiscal year 1991 or any fiscal year thereafter shall be used to support or administer any financial or commercial operation of any United States Government department, agency, or other entity, or of any person subject to the jurisdiction of the United States, for the benefit of the Government of Iraq, its agencies or instrumentalities, or any person working on behalf of the Government of Iraq, contrary to the trade embargo and other economic sanctions imposed in accordance with this section.

(b) HUMANITARIAN ASSISTANCE.—To the extent that transactions involving foodstuffs or payments for foodstuffs are exempted "in humanitarian circumstances" from the prohibitions established by the United States pursuant to United Nations Security Council Resolution 661 (1990), those exemptions shall be limited to foodstuffs that are to be provided consistent with United Nations Security Council Resolution 666 (1990) and other relevant Security Council resolutions.[3]

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

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

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

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

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

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

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

(d) RELATION TO OTHER LAWS.—

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

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

SEC. 586D.[4] COMPLIANCE WITH UNITED NATIONS SANCTIONS AGAINST IRAQ.

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

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

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

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

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

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

(2) the export of its products to Iraq.

SEC. 586E. PENALTIES FOR VIOLATIONS OF EMBARGO.

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

(1) a civil penalty of not to exceed $250,000 may be imposed on any person who, after the date of enactment of this Act, violates or evades or attempts to violate or evade Executive Order Numbered 12722, 12723, 12724, or 12725[2] or any license,

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

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

[5] See *Legislation on Foreign Relations Through 2004*, vol. III; and *Legislation on Foreign Relations Through 2004*, vol. II, respectively.

order, or regulation issued under any such Executive order; and

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

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

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

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

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

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

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

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

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

(4) Amnesty International, Middle East Watch, and other independent human rights organizations have documented extensive, systematic, and continuing human rights abuses by the Government of Iraq, including summary executions, mass political killings, disappearances, widespread use of torture, arbitrary arrests and prolonged detention without trial of thousands of political opponents, forced relocation and deportation, denial of nearly all civil and political rights such as freedom of association, assembly, speech, and the press, and the imprisonment, torture, and execution of children;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) to deny dangerous technologies to Iraq;

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

(3) to induce Iraq to allow appropriate international humanitarian and human rights organizations to have access to Iraq

and Kuwait, including the areas in northern Iraq traditionally inhabited by Kurds.

SEC. 586G. SANCTIONS AGAINST IRAQ.

(a)[6] IMPOSITION.—Except as provided in section 586H, the following sanctions shall apply with respect to Iraq:

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

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

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

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

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

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

(C) DOE AUTHORIZATIONS.—The Secretary of Energy shall not provide a specific authorization under section 57b. (2) of the Atomic Energy Act of 1954 (42 U.S.C. 2077(b)(2)) for any activity that would constitute directly or indirectly engaging in Iraq in activities that require a specific authorization under that section.

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

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

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

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

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

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

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

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

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

SEC. 586H. WAIVER AUTHORITY.

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

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

(1) the Government of Iraq—

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

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

(C) does not provide support for international terrorism;

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

(A) the Charter of the United Nations;

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

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

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

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

(F) the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction

(done at Washington, London, and Moscow, April 10, 1972); and

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

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

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

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

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

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

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

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

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

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

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

(b) NEGOTIATIONS.—The President is directed to begin immediate negotiations with those governments with which the United States has bilateral supercomputer agreements, including the Government of the United Kingdom and the Government of Japan, on conditions restricting the transfer to Iraq of supercomputer or associated technology.

SEC. 586J. REPORTS TO CONGRESS.

(a) STUDY AND REPORT ON THE INTERNATIONAL EXPORT TO IRAQ OF NUCLEAR, BIOLOGICAL, CHEMICAL, AND BALLISTIC MISSILE TECHNOLOGY.—(1) The President shall conduct a study on the sale,

export, and third party transfer or development of nuclear, biological, chemical, and ballistic missile technology to or with Iraq including—

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

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

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

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

(3) Not later than March 30, 1991, the President shall submit to the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on Foreign Affairs[7] of the House of Representatives, a report, in both classified and unclassified form, setting forth the findings of the study required by paragraph (1) of this subsection.

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

(2) Not later than March 30, 1991, the President shall submit to the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on Foreign Affairs[7] of the House of Representatives, a report, in both classified and unclassified form, setting forth the findings of the study required by paragraph (1).

(c) REPORT ON SANCTIONS TAKEN BY OTHER NATIONS AGAINST IRAQ.—(1) The President shall prepare a report on the steps taken

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

by other nations, both before and after the August 2, 1990, invasion of Kuwait, to curtail the export of goods, services, and technologies to Iraq which might contribute to, or enhance, Iraq's nuclear, biological, chemical, and ballistic missile capability.

(2) The President shall provide a complete accounting of international compliance with each of the sanctions resolutions adopted by the United Nations Security Council against Iraq since August 2, 1990, and shall list, by name, each country which to his knowledge, has provided any assistance to Iraq and the amount and type of that assistance in violation of each United Nations resolution.[3]

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

(4) Not later than every 6 months after the date of enactment of this Act, the President shall submit to the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on Foreign Affairs[7] of the House of Representatives, a report in both classified and unclassified form, setting forth the findings of the study required by paragraph (1) of this subsection.

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b. Assistance to Eastern Europe and the Former Soviet Union

(1) Belarus Democracy Act of 2004

Public Law 108–347 [H.R. 854], 118 Stat. 1383, approved October 20, 2004

AN ACT To provide for the promotion of democracy, human rights, and rule of law in the Republic of Belarus and for the consolidation and strengthening of Belarus sovereignty and independence.

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

SECTION 1.[1] SHORT TITLE.

This Act may be cited as the "Belarus Democracy Act of 2004".

SEC. 2.[1] FINDINGS.

Congress makes the following findings:

(1) The United States supports the promotion of democracy, respect for human rights, and the rule of law in the Republic of Belarus consistent with its commitments as a participating state of the Organization for Security and Cooperation in Europe (OSCE).

(2) The United States has a vital interest in the independence and sovereignty of the Republic of Belarus and its integration into the European community of democracies.

(3) In November 1996, Lukashenka orchestrated an illegal and unconstitutional referendum that enabled him to impose a new constitution, abolish the duly-elected parliament, the 13th Supreme Soviet, install a largely powerless National Assembly, and extend his term of office to 2001.

(4) Democratic forces in Belarus have organized peaceful demonstrations against the Lukashenka regime in cities and towns throughout Belarus which led to beatings, mass arrests, and extended incarcerations.

(5) Victor Gonchar, Anatoly Krasovsky, and Yuri Zakharenka, who have been leaders and supporters of the democratic forces in Belarus, and Dmitry Zavadsky, a journalist known for his critical reporting in Belarus, have disappeared and are presumed dead.

(6) Former Belarus Government officials have come forward with credible allegations and evidence that top officials of the Lukashenka regime were involved in the disappearances.

(7) The Belarusian authorities have mounted a major systematic crackdown on civil society through the closure, harassment, and repression of nongovernmental organizations, and independent trade unions.

[1] 22 U.S.C. 5811 note.

(8) The Belarusian authorities actively suppress freedom of speech and expression, including engaging in systematic reprisals against independent media.

(9) The Lukashenka regime has reversed the revival of Belarusian language and culture, including through the closure of the National Humanities Lyceum, the last remaining high school where classes were taught in the Belarusian language.

(10) The Lukashenka regime harasses the autocephalic Belarusian Orthodox Church, the Roman Catholic Church, the Jewish community, the Hindu Lights of Kalyasa community, evangelical Protestant churches (such as Baptist and Pentecostal groups), and other minority religious groups.

(11) The Law on Religious Freedom and Religious Organizations, passed by the National Assembly and signed by Lukashenka on October 31, 2002, establishes one of the most repressive legal regimes in the OSCE region, severely limiting religious freedom and placing excessively burdensome government controls on religious practice.

(12) The parliamentary elections of October 15, 2000, and the presidential election of September 9, 2001, were determined to be fundamentally unfair and nondemocratic.

(13) The Government of Belarus has made no substantive progress in addressing criteria established by the OSCE in 2000, ending repression and the climate of fear, permitting a functioning independent media, ensuring transparency of the elections process, and strengthening of the functions of parliament.

SEC. 3.[1] ASSISTANCE TO PROMOTE DEMOCRACY AND CIVIL SOCIETY IN BELARUS.

(a) PURPOSES OF ASSISTANCE.—The assistance under this section shall be available for the following purposes:

(1) To assist the people of the Republic of Belarus in regaining their freedom and to enable them to join the European community of democracies.

(2) To encourage free and fair presidential, parliamentary, and local elections in Belarus, conducted in a manner consistent with internationally accepted standards and under the supervision of internationally recognized observers.

(3) To assist in restoring and strengthening institutions of democratic governance in Belarus.

(b) AUTHORIZATION FOR ASSISTANCE.—To carry out the purposes of subsection (a), the President is authorized to furnish assistance and other support for the activities described in subsection (c), to be provided primarily for indigenous Belarusian groups that are committed to the support of democratic processes.

(c) ACTIVITIES SUPPORTED.—Activities that may be supported by assistance under subsection (b) include—

(1) the observation of elections and the promotion of free and fair electoral processes;

(2) development of democratic political parties;

(3) radio and television broadcasting to and within Belarus;

(4) the development of nongovernmental organizations promoting democracy and supporting human rights;

(5) the development of independent media working within Belarus and from locations outside the country and supported by nonstate-controlled printing facilities;

(6) international exchanges and advanced professional training programs for leaders and members of the democratic forces in skill areas central to the development of civil society; and

(7) other activities consistent with the purposes of this Act.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the President to carry out this section such sums as may be necessary for each of the fiscal years 2005 and 2006.

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended.

SEC. 4.[1] RADIO BROADCASTING TO BELARUS.

(a) PURPOSE.—It is the purpose of this section to authorize increased support for United States Government and surrogate radio broadcasting to the Republic of Belarus that will facilitate the unhindered dissemination of information.

(b) AUTHORIZATION OF APPROPRIATIONS.—In addition to such sums as are otherwise authorized to be appropriated, there are authorized to be appropriated such sums as may be necessary for fiscal year 2005 and each subsequent fiscal year for radio broadcasting to the people of Belarus in languages spoken in Belarus.

SEC. 5.[1] SENSE OF CONGRESS RELATING TO SANCTIONS AGAINST BELARUS.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the sanctions described in subsection (c) should apply with respect to the Republic of Belarus until the President determines and certifies to the appropriate congressional committees that the Government of Belarus has made significant progress in meeting the conditions described in subsection (b).

(b) CONDITIONS.—The conditions referred to in subsection (a) are the following:

(1) The release of individuals in Belarus who have been jailed based on political or religious beliefs.

(2) The withdrawal of politically motivated legal charges against all opposition figures and independent journalists in Belarus.

(3) A full accounting of the disappearances of opposition leaders and journalists in Belarus, including Victor Gonchar, Anatoly Krasovsky, Yuri Zakharenka, and Dmitry Zavadsky, and the prosecution of those individuals who are responsible for their disappearances.

(4) The cessation of all forms of harassment and repression against the independent media, independent trade unions, nongovernmental organizations, religious organizations (including their leadership and members), and the political opposition in Belarus.

(5) The implementation of free and fair presidential and parliamentary elections in Belarus consistent with OSCE commitments.

(c) PROHIBITION ON LOANS AND INVESTMENT.—

(1) UNITED STATES GOVERNMENT FINANCING.—No loan, credit guarantee, insurance, financing, or other similar financial assistance should be extended by any agency of the United States Government (including the Export-Import Bank and the Overseas Private Investment Corporation) to the Government of Belarus, except with respect to the provision of humanitarian goods and agricultural or medical products.

(2) TRADE AND DEVELOPMENT AGENCY.—No funds available to the Trade and Development Agency should be available for activities of the Agency in or for Belarus.

(d) MULTILATERAL FINANCIAL ASSISTANCE.—It is further the sense of Congress that, in addition to the application of the sanctions described in subsection (c) to the Republic of Belarus (until the President determines and certifies to the appropriate congressional committees that the Government of Belarus has made significant progress in meeting the conditions described in subsection (b)), the Secretary of the Treasury should instruct the United States Executive Director of each international financial institution to which the United States is a member to use the voice and vote of the United States to oppose any extension by those institutions of any financial assistance (including any technical assistance or grant) of any kind to the Government of Belarus, except for loans and assistance that serve humanitarian needs.

SEC. 6.[1] MULTILATERAL COOPERATION.

It is the sense of Congress that the President should continue to seek to coordinate with other countries, particularly European countries, a comprehensive, multilateral strategy to further the purposes of this Act, including, as appropriate, encouraging other countries to take measures with respect to the Republic of Belarus that are similar to measures described in this Act.

SEC. 7.[1] REPORT.

(a) REPORT.—Not later than 90 days after the date of the enactment of this Act, and not later than 1 year thereafter, the President shall transmit to the appropriate congressional committees a report that describes, with respect to the preceding 12-month period, and to the extent practicable the following:

(1) The sale or delivery of weapons or weapons-related technologies from the Republic of Belarus to any country, the government of which the Secretary of State has determined, for purposes of section 6(j)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)), has repeatedly provided support for acts of international terrorism.

(2) An identification of each country described in paragraph (1) and a detailed description of the weapons or weapons-related technologies involved in the sale.

(3) An identification of the goods, services, credits, or other consideration received by Belarus in exchange for the weapons or weapons-related technologies.

(4) The personal assets and wealth of Aleksandr Lukashenka and other senior leadership of the Government of Belarus.

(b) FORM.—A report transmitted pursuant to subsection (a) shall be in unclassified form but may contain a classified annex.

SEC. 8.[1] DECLARATION OF POLICY.

Congress hereby—

(1) calls upon the Lukashenka regime to cease its persecution of political opponents or independent journalists and to release those individuals who have been imprisoned for opposing his regime or for exercising their right to freedom of speech;

(2) expresses its grave concern about the disappearance of Victor Gonchar, Anatoly Krasovsky, Yuri Zakharenko, and Dmitry Zavadsky and calls upon the Lukashenka regime to cooperate fully with the Belrussian civil initiative "We Remember" and to extend to this organization all necessary information to find out the truth about the disappearances;

(3) calls upon the Lukashenka regime to cooperate fully with the Parliamentary Assembly of the Council of Europe (PACE) and its specially appointed representatives in matters regarding the resolution of the cases of the disappeared; and

(4) commends the democratic opposition in Belarus for their commitment to participate in October 2004 Parliamentary elections as a unified coalition and for their courage in the face of the repression of the Lukashenka regime in Belarus.

SEC. 9.[1] DEFINITIONS.

In this Act:

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

(2) OSCE.—The term "OSCE" means the Organization for Security and Cooperation in Europe.

(3) SENIOR LEADERSHIP OF THE GOVERNMENT OF BELARUS.—The term "senior leadership of the Government of Belarus" includes—

(A) the President, Prime Minister, Deputy Prime Ministers, government ministers, Chairmen of State Committees, and members of the Presidential Administration of Belarus;

(B) any official of the Government of Belarus who is personally and substantially involved in the suppression of freedom in Belarus, including judges and prosecutors; and

(C) any other individual determined by the Secretary of State (or the Secretary's designee) to be personally and substantially involved in the formulation or execution of the policies of the Lukashenka regime that are in contradiction of internationally recognized human rights standards.

(2) Russian Democracy Act of 2002

Public Law 107–246 [H.R. 2121], 116 Stat. 1511, approved October 23, 2002

AN ACT To make available funds under the Foreign Assistance Act of 1961 to expand democracy, good governance, and anti-corruption programs in the Russian Federation in order to promote and strengthen democratic government and civil society and independent media in that country.

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

SECTION 1.[1] SHORT TITLE.

This Act may be cited as the "Russian Democracy Act of 2002".

SEC. 2.[2] FINDINGS AND PURPOSES.

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

(1) Since the dissolution of the Soviet Union, the leadership of the Russian Federation has publicly committed itself to building—

(A) a society with democratic political institutions and practices, the observance of universally recognized standards of human rights, and religious and press freedom; and

(B) a market economy based on internationally accepted principles of transparency, accountability, and the rule of law.

(2) In order to facilitate this transition, the international community has provided multilateral and bilateral technical assistance, and the United States' contribution to these efforts has played an important role in developing new institutions built on democratic and liberal economic foundations and the rule of law.

(3)(A) Since 1992, United States Government democratic reform programs and public diplomacy programs, including training, and small grants have provided access to and training in the use of the Internet, brought nearly 40,000 Russian citizens to the United States, and have led to the establishment of more than 65,000 nongovernmental organizations, thousands of independent local media outlets, despite governmental opposition, and numerous political parties.

(B) These efforts contributed to the substantially free and fair Russian parliamentary elections in 1995 and 1999.

(4) The United States has assisted Russian efforts to replace its centrally planned, state-controlled economy with a market economy and helped create institutions and infrastructure for a market economy. Approximately two-thirds of the Russian Federation's gross domestic product is now generated by the

[1] 22 U.S.C. 2151 note.
[2] 22 U.S.C. 2295 note.

private sector, and the United States recognized Russia as a market economy on June 7, 2002.

(5)(A) The United States has fostered grassroots entrepreneurship in the Russian Federation by focusing United States economic assistance on small- and medium-sized businesses and by providing training, consulting services, and small loans to more than 250,000 Russian entrepreneurs.

(B) There are now more than 900,000 small businesses in the Russian Federation, producing 12 to 15 percent, depending on the estimate, of the gross domestic product of the Russian Federation.

(C) United States-funded programs have contributed to fighting corruption and financial crime, such as money laundering, by helping to—

(i) establish a commercial legal infrastructure;

(ii) develop an independent judiciary;

(iii) support the drafting of a new criminal code, civil code, and bankruptcy law;

(iv) develop a legal and regulatory framework for the Russian Federation's equivalent of the United States Securities and Exchange Commission;

(v) support Russian law schools;

(vi) create legal aid clinics; and

(vii) bolster law-related activities of nongovernmental organizations.

(6) Because the capability of Russian democratic forces and the civil society to organize and defend democratic gains without international support is uncertain, and because the gradual integration of the Russian Federation into the global order of free-market, democratic nations would enhance Russian cooperation with the United States on a wide range of political, economic, and security issues, the success of democracy in Russia is in the national security interest of the United States, and the United States Government should develop a far-reaching and flexible strategy aimed at strengthening Russian society's support for democracy and a market economy, particularly by enhancing Russian democratic institutions and education, promoting the rule of law, and supporting Russia's independent media.

(7) Since the tragic events of September 11, 2001, the Russian Federation has stood with the United States and the rest of the civilized world in the struggle against terrorism and has cooperated in the war in Afghanistan by sharing intelligence and through other means.

(8) United States-Russia relations have improved, leading to a successful summit between President Bush and President Putin in May 2002, resulting in a "Foundation for Cooperation".

(b) PURPOSES.—The purposes of this Act are—

(1) to strengthen and advance institutions of democratic government and of free and independent media, and to sustain the development of an independent civil society in the Russian

Federation based on religious and ethnic tolerance, internationally recognized human rights, and an internationally recognized rule of law; and

(2) to focus United States foreign assistance programs on using local expertise and to give local organizations a greater role in designing and implementing such programs, while maintaining appropriate oversight and monitoring.

SEC. 3.[2] UNITED STATES POLICY TOWARD THE RUSSIAN FEDERATION.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the United States Government should—

(1) recognize that a democratic and economically stable Russian Federation is inherently less confrontational and destabilizing in its foreign policy and therefore that the promotion of democracy in Russia is in the national security interests of the United States; and

(2) continue and increase assistance to the democratic forces in the Russian Federation, including the independent media, regional administrations, democratic political parties, and nongovernmental organizations.

(b) STATEMENT OF POLICY.—It shall be the policy of the United States—

(1) to facilitate Russia's integration into the Western community of nations, including supporting the establishment of a stable democracy and a market economy within the framework of the rule of law and respect for individual rights, including Russia's membership in the appropriate international institutions;

(2) to engage the Government of the Russian Federation and Russian society in order to strengthen democratic reform and institutions, and to promote transparency and good governance in all aspects of society, including fair and honest business practices, accessible and open legal systems, freedom of religion, and respect for human rights;

(3) to advance a dialogue among United States Government officials, private sector individuals, and representatives of the Government of the Russian Federation regarding Russia's integration into the Western community of nations;

(4) to encourage United States Government officials and private sector individuals to meet regularly with democratic activists, human rights activists, representatives of the independent media, representatives of nongovernmental organizations, civic organizers, church officials, and reform-minded politicians from Moscow and all other regions of the Russian Federation;

(5) to incorporate democratic reforms, the promotion of independent media, and economic reforms in a broader United States dialogue with the Government of the Russian Federation;

(6) to encourage the Government of the Russian Federation to address, in a cooperative and transparent manner consistent with internationally recognized and accepted principles, cross-border issues, including the nonproliferation of weapons of mass destruction, environmental degradation, crime, trafficking, and corruption;

(7) to consult with the Government of the Russian Federation and the Russian Parliament on the adoption of economic and social reforms necessary to sustain Russian economic growth and to ensure Russia's transition to a fully functioning market economy and membership in the World Trade Organization;

(8) to persuade the Government of the Russian Federation to honor its commitments made to the Organization for Security and Cooperation in Europe (OSCE) at the November 1999 Istanbul Conference, and to conduct a genuine good neighbor policy toward the other independent states of the former Soviet Union in the spirit of internationally accepted principles of regional cooperation; and

(9) to encourage the G–8 partners and international financial institutions, including the World Bank, the International Monetary Fund, and the European Bank for Reconstruction and Development, to develop financial safeguards and transparency practices in lending to the Russian Federation.

SEC. 4. AMENDMENTS TO THE FOREIGN ASSISTANCE ACT OF 1961.

* * *

SEC. 5.[2] ACTIVITIES TO SUPPORT THE RUSSIAN FEDERATION.

(a) ASSISTANCE PROGRAMS.—In providing assistance to the Russian Federation under chapter 11 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2295 et seq.), the President is authorized to—

(1) work with the Government of the Russian Federation, the Duma, and representatives of the Russian Federation judiciary to help implement a revised and improved code of criminal procedure and other laws;

(2) establish civic education programs relating to democracy, public policy, the rule of law, and the importance of independent media, including the establishment of "American Centers" and public policy schools at Russian universities and encourage cooperative programs with universities in the United States to offer courses through Internet-based off-site learning centers at Russian universities; and

(3) support the Regional Initiatives (RI) program, which provides targeted assistance in those regions of the Russian Federation that have demonstrated a commitment to reform, democracy, and the rule of law, and which promotes the concept of such programs as a model for all regions of the Russian Federation.

(b) RADIO FREE EUROPE/RADIO LIBERTY AND VOICE OF AMERICA.—RFE/RL, Incorporated, and the Voice of America should use new and innovative techniques, in cooperation with local independent media sources and using local languages as appropriate and as possible, to disseminate throughout the Russian Federation information relating to democracy, free-market economics, the rule of law, and human rights.

SEC. 6. AUTHORIZATION OF ASSISTANCE FOR DEMOCRACY, INDEPENDENT MEDIA, AND THE RULE OF LAW.

Of the amounts made available to carry out the provision of chapter 11 of part I of the Foreign Assistance Act of 1961 (22

U.S.C. 2295 et seq.) and the FREEDOM Support Act for fiscal year 2003, $50,000,000 is authorized to be available for the activities authorized by paragraphs (2) and (3) of section 498 of the Foreign Assistance Act of 1961, as amended by section 4(a) of this Act.

SEC. 7. PRESERVING THE ARCHIVES OF HUMAN RIGHTS ACTIVIST AND NOBEL PEACE PRIZE WINNER ANDREI SAKHAROV.

(a) AUTHORIZATION.—The President is authorized, on such terms and conditions as the President determines to be appropriate, to make a grant to Brandeis University for an endowment for the Andrei Sakharov Archives and Human Rights Center for the purpose of collecting and preserving documents related to the life of Andrei Sakharov and the administration of such Center.

(b) FUNDING.—There is authorized to be appropriated to the President to carry out subsection (a) not more than $1,500,000.

SEC. 8. EXTENSION OF LAW.

The provisions of section 108(c) of H.R. 3427, as enacted by section 1000(a)(7) of Public Law 106–113, shall apply to United States contributions for fiscal year 2003 to the organization described in section 108(c) of H.R. 3427.[3]

[3] Sec. 108(c) of H.R. 3427, enacted in Public Law 106–113 (113 Stat. 1537–409), provided the following:

"(c) RESTRICTIONS ON UNITED STATES VOLUNTARY CONTRIBUTIONS TO UNITED NATIONS DEVELOPMENT PROGRAM.—

"(1) LIMITATION.—Of the amounts made available under subsection (a) for each of the fiscal years 2000 and 2001 for United States voluntary contributions to the United Nations Development Program an amount equal to the amount the United Nations Development Program will spend in Burma during each fiscal year shall be withheld unless during such fiscal year the Secretary of State submits to the appropriate congressional committees the certification described in paragraph (2).

"(2) CERTIFICATION.—The certification referred to in paragraph (1) is a certification by the Secretary of State that all programs and activities of the United Nations Development Program (including United Nations Development Program—Administered Funds) in Burma—

"(A) are focused on eliminating human suffering and addressing the needs of the poor;

"(B) are undertaken only through international or private voluntary organizations that have been deemed independent of the State Peace and Development Council (SPDC) (formerly known as the State Law and Order Restoration Council (SLORC)), after consultation with the leadership of the National League for Democracy and the leadership of the National Coalition Government of the Union of Burma;

"(C) provide no financial, political, or military benefit to the SPDC; and

"(D) are carried out only after consultation with the leadership of the National League for Democracy and the leadership of the National Coalition Government of the Union of Burma.".

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

FRIENDSHIP Act

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

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

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

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

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

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

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

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

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

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

SECTION 1. SHORT TITLES.

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

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows: * * *

SEC. 3. DEFINITION.

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

TITLE I—POLICY OF FRIENDSHIP AND COOPERATION

SEC. 101. STATEMENT OF PURPOSE.

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

SEC. 102. FINDINGS.

The Congress finds and declares as follows:

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

its support for the principles contained in the Vancouver Declaration.

(2) The Vancouver Declaration underscored that—

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

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

(C) cooperation between the United States and Russia is essential to the peaceful resolution of international conflicts and the promotion of democratic values, the protection of human rights, and the solution of global problems such as environmental pollution, terrorism, and narcotics trafficking.

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

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

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

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

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

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

rected) against the Soviet Union on the basis of the relations that formerly existed between the United States and the Soviet Union, particularly in its role as the leading communist country.

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

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

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

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

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

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

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

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

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

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

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

TITLE II—TRADE AND BUSINESS RELATIONS

SEC. 201. POLICY UNDER EXPORT ADMINISTRATION ACT.

(a) CONFORMING AMENDMENTS.—* * *

(b) POLICY REGARDING KAL.—

(1) The Congress finds that—

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

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

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

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

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

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

(2) * * *

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TITLE IX—MISCELLANEOUS

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SEC. 905.[1] MONUMENT TO HONOR VICTIMS OF COMMUNISM.

(a) FINDINGS.—Congress finds that—

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

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

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

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

(b) AUTHORIZATION OF MEMORIAL.—

(1) AUTHORIZATION.—

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

[1] Listed at 40 U.S.C. 8903 note. Sec. 326 of the Department of the Interior and Related Agencies Appropriations Act, 1999 (Public Law 105–277; 112 Stat. 2681–291) provided the following: "SEC. 326. Notwithstanding the provisions of section 1010(b) of the Commemorative Works Act (40 U.S.C. 1001 et seq.), the legislative authority for the international memorial to honor the victims of communism, authorized under section 905 of Public Law 103–199 (107 Stat. 2331), shall expire December 17, 2007.".

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

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

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

(c) PAYMENT OF EXPENSES.—The entity referred to in subsection (b)(1) shall be solely responsible for acceptance of contributions for, and payment of the expenses of, the establishment of the memorial. No Federal funds may be used to pay any expense of the establishment of the memorial.

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

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

FREEDOM Support Act

Partial text of Public Law 102–511 [S. 2532], 106 Stat. 3320, approved October 24, 1992; amended by Public Law 104–66 [Federal Reports Elimination and Sunset Act of 1995; S. 790], 109 Stat. 707, approved December 21, 1995; and by Public Law 105–277 [Department of Education Appropriations Act, 1999; H.R. 4328], 112 Stat. 2681–363, approved October 21, 1998

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

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

SECTION 1.[1] SHORT TITLES.

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

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

	Page
Sec. 1. Short titles	73
Sec. 2. Table of contents	73
Sec. 3. Definition of independent states	74
TITLE I—GENERAL PROVISIONS	
Sec. 101. Findings	74
Sec. 102. Program coordination, implementation, and oversight	76
Sec. 103. Report on overall assistance and economic cooperation strategy	77
Sec. 104. Annual report	77
TITLE II—BILATERAL ECONOMIC ASSISTANCE ACTIVITIES	
Sec. 201. Support for economic and democratic development in the independent states	79
Sec. 202. Ineligibility for assistance of institutions withholding certain documents of United States nationals	79
TITLE III—BUSINESS AND COMMERCIAL DEVELOPMENT	
Sec. 301. American Business Centers	80
Sec. 302. Business and Agriculture Advisory Council	82
Sec. 303. Funding for export promotion activities and capital projects	82
Sec. 304. Interagency working group on energy of the Trade Promotion Coordinating Committee	83
Sec. 306. Policy on combatting tied aid practices	83
Sec. 307. Technical assistance for the Russian Far East	84
Sec. 308. Funding for OPIC programs	84
TITLE IV—THE DEMOCRACY CORPS	
Sec. 401. Authorization for establishment of the Democracy Corps	84

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

TITLE V—NONPROLIFERATION AND DISARMAMENT PROGRAMS AND ACTIVITIES

Sec. 501. Findings 87
Sec. 502. Eligibility 87
Sec. 503. Nonproliferation and disarmament activities in the independent states 88
Sec. 504. Nonproliferation and disarmament fund 89
Sec. 505. Limitations on defense conversion authorities 90
Sec. 506. Soviet weapons destruction 91
Sec. 507. Waiver of certain provisions 91
Sec. 508. Notice and reports to Congress 92
Sec. 509. International nonproliferation initiative 93
Sec. 510. Report on special nuclear materials 95
Sec. 511. Research and development foundation 95

TITLE VI—SPACE TRADE AND COOPERATION

Sec. 601. Facilitating discussions regarding the acquisition of space hardware, technology, and services from the former Soviet Union 97
Sec. 602. Office of Space Commerce 98
Sec. 603. Report to Congress 98
Sec. 604. Definitions 98

TITLE VII—AGRICULTURAL TRADE

Sec. 703. Assistance for private voluntary organizations 99
Sec. 704. Distribution of aid to the independent states of the former Soviet Union 99
Sec. 707. Direct credit sales 99

TITLE VIII—UNITED STATES INFORMATION AGENCY, DEPARTMENT OF STATE, AND RELATED AGENCIES AND ACTIVITIES

Sec. 802. New diplomatic posts in the independent states 100
Sec. 804. Certain positions at United States missions 100
Sec. 805. International Development Law Institute 100
Sec. 807. Exchanges and training and similar programs 100

TITLE IX—OTHER PROVISIONS

Sec. 902. Johnson Act 102
Sec. 903. Support for East European Democracy (SEED) Act 102
Sec. 906. Eligibility of Baltic states for nonlethal defense articles 102
Sec. 907. Restriction on assistance to Azerbaijan 103

TITLE X—INTERNATIONAL FINANCIAL INSTITUTIONS

Sec. 1004. Support for Macroeconomic Stabilization in the Independent States of the Former Soviet Union 104
Sec. 1007. Report on Debt of the Former Soviet Union Held By Commercial Financial Institutions 105
Sec. 1009. Multilateral Investment Guarantees for the Independent States of the Former Soviet Union 105

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

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

TITLE I—GENERAL PROVISIONS

SEC. 101.[3] FINDINGS.

The Congress finds that—

[2] 22 U.S.C. 5801.
[3] 22 U.S.C. 5811.

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

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

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

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

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

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

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

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

(7) trade and investment opportunities in the independent states of the former Soviet Union will generate employment and other economic benefits for the United States as the economies of the independent states of the former Soviet Union begin to realize their enormous potential as both customers and suppliers.

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

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

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

(2) ensuring program and policy coordination among agencies of the United States Government in carrying out the policies set forth in this Act (including the amendments made by this Act and chapter 12 of part I of the Foreign Assistance Act of 1961);[5]

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

(4) ensuring that United States assistance programs for the independent states are consistent with this Act (including the amendments made by this Act and chapter 12 of part I of the Foreign Assistance Act of 1961);[5]

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

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

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

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

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

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

See also secs. 421–426 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), relating to Russia and Ukrainian business management education.

[5] Sec. 596(c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (H.R. 3422, enacted by reference in sec. 1000(a)(2) of Public Law 106–113; 113 Stat. 1535), struck out "this Act)" and inserted in lieu thereof "this Act and chapter 12 of part I of the Foreign Assistance Act of 1961)".

SEC. 103.[6] REPORT ON OVERALL ASSISTANCE AND ECONOMIC COOPERATION STRATEGY.

(a) REQUIREMENT FOR SUBMISSION.—As soon as practicable after the date of enactment of this Act, the coordinator designated pursuant to section 102(a) shall submit to the Congress a report on the overall assistance and economic cooperation strategy for the independent states of the former Soviet Union that is required to be developed pursuant to paragraph (1) of that section.

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

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

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

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

SEC. 104.[7] ANNUAL REPORT.

Not later than January 31 of each year, the President shall submit to the Congress a report on United States assistance for the

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[6] 22 U.S.C. 5813.

[7] 22 U.S.C. 5814.

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

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

Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), provided the following:

"ASSISTANCE FOR THE INDEPENDENT STATES OF THE FORMER SOVIET UNION

"(a) For necessary expenses to carry out the provisions of chapters 11 and 12 of part I of the Foreign Assistance Act of 1961 and the FREEDOM Support Act, for assistance for the Independent States of the former Soviet Union and for related programs, $560,000,000, to remain available until September 30, 2006: *Provided,* That the provisions of such chapters shall apply to funds appropriated by this paragraph: *Provided further,* That funds made available for the Southern Caucasus region may be used, notwithstanding any other provision of law, for confidence-building measures and other activities in furtherance of the peaceful resolution of the regional conflicts, especially those in the vicinity of Abkhazia and Nagorno-Karabagh: *Provided further,* That of the funds appropriated under this heading, $3,859,000 should be available only to meet the health and other assistance needs of victims of trafficking in persons: *Provided further,* That of the funds appropriated under this heading, $17,500,000 shall be made available solely for assistance for the Russian Far East: *Provided further,* That, notwithstanding any other provision of law, funds appropriated under this heading in this Act or prior Acts making appropriations for foreign operations, export financing, and related programs, that are made available pursuant to the provisions of section 807 of Public Law 102–511 shall be subject to a 6 percent ceiling on administrative expenses.

Continued

independent states of the former Soviet Union under this Act or other provisions of law. Each such report shall include—

(1) an assessment of the progress each independent state has made in meeting the standards set forth in section 498A of the Foreign Assistance Act of 1961, including a description of the steps each independent state has taken or is taking toward meeting those standards and a discussion of additional steps that each independent state could take to meet those standards;

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

(3) an assessment of the effectiveness of United States assistance in achieving its purposes;[8]

(4) an evaluation of the manner in which the "notwithstanding" authority provided in section 498B(j)(1) of the Foreign Assistance Act of 1961, and the "notwithstanding" authority provided in any other provision of law with respect to assistance for the independent states, has been used and why the use of that authority was necessary; and[8]

(5)[8] with respect to the countries of the South Caucasus and Central Asia—

"(b) Of the funds appropriated under this heading that are made available for assistance for Ukraine, not less than $5,000,000 should be made available for nuclear reactor safety initiatives, and not less than $1,500,000 shall be made available for coal mine safety programs.

"(c) Of the funds appropriated under this heading, not less than $55,000,000 should be made available, in addition to funds otherwise available for such purposes, for assistance for child survival, environmental and reproductive health, and to combat HIV/AIDS, tuberculosis and other infectious diseases, and for related activities.

"(d)(1) Of the funds appropriated under this heading that are allocated for assistance for the Government of the Russian Federation, 60 percent shall be withheld from obligation until the President determines and certifies in writing to the Committees on Appropriations that the Government of the Russian Federation—

"(A) has terminated implementation of arrangements to provide Iran with technical expertise, training, technology, or equipment necessary to develop a nuclear reactor, related nuclear research facilities or programs, or ballistic missile capability; and

"(B) is providing full access to international non-government organizations providing humanitarian relief to refugees and internally displaced persons in Chechnya.

"(2) Paragraph (1) shall not apply to—

"(A) assistance to combat infectious diseases, child survival activities, or assistance for victims of trafficking in persons; and

"(B) activities authorized under title V (Nonproliferation and Disarmament Programs and Activities) of the FREEDOM Support Act.

"(e) Section 907 of the FREEDOM Support Act shall not apply to—

"(1) activities to support democracy or assistance under title V of the FREEDOM Support Act and section 1424 of Public Law 104–201 or non-proliferation assistance;

"(2) any assistance provided by the Trade and Development Agency under section 661 of the Foreign Assistance Act of 1961 (22 U.S.C. 2421);

"(3) any activity carried out by a member of the United States and Foreign Commercial Service while acting within his or her official capacity;

"(4) any insurance, reinsurance, guarantee or other assistance provided by the Overseas Private Investment Corporation under title IV of chapter 2 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2191 et seq.);

"(5) any financing provided under the Export-Import Bank Act of 1945; or

"(6) humanitarian assistance.".

See also in that Act, in title II, para. on nonproliferation, anti-terrorism, demining and related programs; and sec. 517, relating to the independent states of the former Soviet Union.

[8] Sec. 596(d) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (H.R. 3422, enacted by reference in sec. 1000(a)(2) of Public Law 106–113; 113 Stat. 1535), struck out "and" at the end of para. (3), replaced the period at the end of para. (4) with "; and", and added a new para. (5).

(A) an identification of the progress made by the United States in accomplishing the policy described in section 3 of the Silk Road Strategy Act of 1999;

(B) an evaluation of the degree to which the assistance authorized by chapter 12 of part I of the Foreign Assistance Act of 1961 has accomplished the purposes identified in that chapter;

(C) a description of the progress being made by the United States to resolve trade disputes registered with and raised by the United States embassies in each country, and to negotiate a bilateral agreement relating to the protection of United States direct investment in, and other business interests with, each country; and

(D) recommendations of any additional initiatives that should be undertaken by the United States to implement the policy and purposes contained in the Silk Road Strategy Act of 1999.

TITLE II—BILATERAL ECONOMIC ASSISTANCE ACTIVITIES

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

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

"CHAPTER 11—SUPPORT FOR THE ECONOMIC AND DEMOCRATIC DEVELOPMENT OF THE INDEPENDENT STATES OF THE FORMER SOVIET UNION * * *"[9]

SEC. 202.[10] INELIGIBILITY FOR ASSISTANCE OF INSTITUTIONS WITHHOLDING CERTAIN DOCUMENTS OF UNITED STATES NATIONALS.

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

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

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

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

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

[9] Codified at 22 U.S.C. 2295–2295C. Incorporated into the Foreign Assistance Act of 1961 (Public Law 87–195) as secs. 498–498C. For text, see *Legislation on Foreign Relations Through 2004*, vol. I–A.

[10] 22 U.S.C. 2295a note.

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

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

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

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

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

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

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

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

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

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

TITLE III—BUSINESS AND COMMERCIAL DEVELOPMENT

SEC. 301.[11] AMERICAN BUSINESS CENTERS.

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

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

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

[11] 22 U.S.C. 5821. Sec. 2(b) of Executive Order 12884 of December 1, 1993 (58 F.R. 64099; December 3, 1993) delegated to the Coordinator (as established in section 102 of this Act) those functions conferred upon the President in sec. 301, "insofar as it related to determinations and directives".

Sec. 3 of Executive Order 12884, as amended, however, "delegated to the Secretary of State the functions conferred upon the President by:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) FUNDING.—

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

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

SEC. 302.[12] BUSINESS AND AGRICULTURE ADVISORY COUNCIL.

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

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

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

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

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

SEC. 303.[13] FUNDING FOR EXPORT PROMOTION ACTIVITIES AND CAPITAL PROJECTS.

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

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

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

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

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

[12] 22 U.S.C. 5822.
[13] 22 U.S.C. 5823.

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

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

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

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

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

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

SEC. 304.[14] INTERAGENCY WORKING GROUP ON ENERGY OF THE TRADE PROMOTION COORDINATING COMMITTEE.

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

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

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

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

SEC. 305.[15] * * * [Repealed—1995]

SEC. 306.[16] POLICY ON COMBATTING TIED AID PRACTICES.

Should the Secretary of the Treasury determine that foreign countries are engaged in tied aid practices with respect to any of

[14] 22 U.S.C. 5824.

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

[16] 22 U.S.C. 5826.

the independent states of the former Soviet Union that violate the 1991 Helsinki agreement of the Organization for Economic Cooperation and Development, the President should give priority attention to combatting such practices.

SEC. 307.[17] TECHNICAL ASSISTANCE FOR THE RUSSIAN FAR EAST.

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

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

SEC. 308.[18] FUNDING FOR OPIC PROGRAMS.

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

(b) ENACTMENT OF OPIC AUTHORIZATION ACT.—The authority of subsection (a) shall cease to be effective upon the enactment of the Overseas Private Investment Corporation Act Amendments Act of 1992.[19]

TITLE IV—THE DEMOCRACY CORPS

SEC. 401.[20] AUTHORIZATION FOR ESTABLISHMENT OF THE DEMOCRACY CORPS.

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

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

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

(2) shall be United States citizens; and

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[17] 22 U.S.C. 5827. Sec. 3(a) of Executive Order 12884 of December 1, 1993 (58 F.R. 64099; December 3, 1993), as amended, delegated to the Secretary of State the functions conferred upon the President by sec. 307. This delegation of authority is subject to the authority of the Coordinator (as established in sec. 102).

[18] 22 U.S.C. 5828.

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

[20] 22 U.S.C. 5841.

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

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

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

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

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

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

(1) providing advice and technical assistance;

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

(3) identifying other sources of assistance; and

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

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

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

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

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

(2) ensure that its activities pursuant to this section are designed to avoid duplication with activities carried out under

other United States Government foreign assistance and international information, educational, cultural, and exchange programs.

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

(h) FREEDOM OF INFORMATION.—

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

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

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

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

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

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

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

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

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

TITLE V—NONPROLIFERATION AND DISARMAMENT PROGRAMS AND ACTIVITIES

SEC. 501.[21] FINDINGS.

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

(1) to facilitate, on a priority basis—

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

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

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

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

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

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

SEC. 502.[22] ELIGIBILITY.

Funds may be obligated for a fiscal year for assistance or other programs or activities for an independent state of the former Soviet Union under sections 503 and 504 only if the President has certified to the Congress,[23] during that fiscal year, that such independent state is committed to—

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

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[21] 22 U.S.C. 5851.

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

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

[23] On January 10, 2003, the President certified "that waiving the restrictions contained in subsection (d) of section 1203 of the Cooperative Threat Reduction Act of 1993 (22 U.S.C. 5952), as amended, and the requirements contained in section 502 of the FREEDOM Support Act (22 U.S.C. 5852) during Fiscal Year 2003 with respect to the Russian Federation is important to the national security interests of the United States." (Presidential Determination No. 03–11; 68 F.R. 2419). The President made similar determinations for FY 2004 for the Russian Federation (Presidential Determination No. 2004–08; November 7, 2003; 68 F.R. 65383), and the Republic of Uzbekistan (Presidential Determination No. 2004–19; December 30, 2003; 69 F.R. 2479), and for FY 2005 for the Russian Federation (Presidential Determination No. 2005–09; December 6, 2004; 69 F.R. 74933); and the Republic of Uzbekistan (Presidential Determination No. 2005–13; December 14, 2004; 70 F.R. 1).

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

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

(4) facilitating United States verification of any weapons destruction carried out under section 503(a) or 504(a) of this Act or section 212 of the Soviet Nuclear Threat Reduction Act of 1991 (title II of Public Law 102–228; 22 U.S.C. 2551 note).[24]

SEC. 503.[25] NONPROLIFERATION AND DISARMAMENT ACTIVITIES IN THE INDEPENDENT STATES.

(a) AUTHORIZATION.—The President is authorized[26] to promote bilateral and multilateral nonproliferation and disarmament activities—

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

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

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

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

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

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

(5) by establishing science and technology centers in the independent states for the purpose of engaging weapons scientists and engineers of the independent states (in particular

[24] For the Soviet Nuclear Threat Reduction Act of 1991, see *Legislation on Foreign Relations Through 2004*, vol. II.

[25] 22 U.S.C. 5853. See also sec. 1138, transfer of funding for science and technology centers in the former Soviet Union, and sec. 1139, research and exchange activities by science and technology centers, in the Arms Control, Nonproliferation, and Security Assistance Act of 1999 (Division B of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536).

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

those who were previously involved in the design and production of nuclear, biological, and chemical weapons) in productive, nonmilitary undertakings; and

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

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

(c) USE OF DEFENSE FUNDS.—

(1) AUTHORIZATION.—In recognition of the direct contributions to the national security interests of the United States of the programs and activities authorized by subsection (a), the President is authorized to make available for use in carrying out those programs and activities, in addition to amounts otherwise available for such purposes, funds made available pursuant to sections 108 and 109 of Public Law 102–229 or under the amendments made by section 506(a) of this Act.[27]

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

SEC. 504.[28] NONPROLIFERATION AND DISARMAMENT FUND.

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

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

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

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

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

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

[27] For title I of Public Law 102–229, see *Legislation on Foreign Relations Through 2004*, vol. II.

[28] 22 U.S.C. 5854. Authorities and duties vested in the President under this section are delegated to the Secretary of State, in consultation with the Secretary of Defense and other appropriate agencies (Presidential memorandum of April 21, 1994; 59 F.R. 21619). Funds appropriated or otherwise made available for the Nonproliferation and Disarmament Fund are, furthermore, allocated to the Secretary of State, by the same memorandum.

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

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

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

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

(c) USE OF SECURITY ASSISTANCE FUNDS.—

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

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

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

SEC. 505.[29] LIMITATIONS ON DEFENSE CONVERSION AUTHORITIES.

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

[29] 22 U.S.C. 5855.

States defense spending, such as programs funded through the Office of Economic Adjustment in the Department of Defense or through[30] the Economic Development Administration.

SEC. 506.[31] SOVIET WEAPONS DESTRUCTION.

(a)[32] ADDITIONAL FUNDING.—

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

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

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

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

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

(b)[32] TECHNICAL REVISIONS TO PUBLIC LAW 102–229.—Public Law 102–229 is amended—

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

(2) in section 109 (105 Stat. 1708)—

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

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

(c)[32] AVOIDANCE OF DUPLICATIVE AMENDMENTS.—The amendments made by this section shall not be effective if the National Defense Authorization Act for Fiscal Year 1993 enacts an amendment to section 221(a) of the Soviet Nuclear Threat Reduction Act of 1991 that authorizes the transfer of an amount that is the same or greater than the amount that is authorized by the amendment made by subsection (a)(1) of this section and enacts amendments identical to those in subsections (a)(2) and (b) of this section. If that Act enacts such amendments, sections 503 and 508 of this Act shall be deemed to apply with respect to the funds made available under such amendments.

SEC. 507.[33] WAIVER OF CERTAIN PROVISIONS.

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

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

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[30] Sec. 405(f)(20) of the Department of Education Appropriations Act, 1999 (title III of sec. 101(f) of Public Law 105–277 (112 Stat. 2681–422) struck out ", through the Defense Conversion Adjustment Program (as authorized by the Job Training Partnership Act), or through" and inserted in lieu thereof "or through".

[31] 22 U.S.C. 5856.

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

[33] 22 U.S.C. 5857.

(1) this title; and

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

SEC. 508.[34] **NOTICE AND REPORTS TO CONGRESS.**

(a) NOTICE OF PROPOSED OBLIGATIONS.—Not less than 15 days before obligating any funds under section 503 or 504 or the amendments made by section 506(a), the President shall transmit to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the appropriate congressional committees a report on the proposed obligation. Each such report shall specify—[35]

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

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

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

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

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

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

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

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

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[34] 22 U.S.C. 5858.

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

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

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

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

(A) the Committee on Foreign Relations of the Senate, the Committee on Foreign Affairs[36] of the House of Representatives, and the Committees on Appropriations of the House and the Senate, wherever the account, budget activity, or program is funded from appropriations made under the international affairs budget function (150);

(B) the Committees on Armed Services and the Committees on Appropriations of the Senate and the House of Representatives,[37] wherever the account, budget activity, or program is funded from appropriations made under the national defense budget function (050); and

(2) the committee to which the specified activities of section 503(a) or 504(a) or subtitle B of the Soviet Nuclear Threat Reduction Act of 1991[38] (as the case may be), if the subject of separate legislation, would be referred, under the rules of the respective House of Congress.

SEC. 509.[39] INTERNATIONAL NONPROLIFERATION INITIATIVE.

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

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

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

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

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

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

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

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

[37] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. The Committee on National Security subsequently returned to the name "Committee on Armed Services"; see sec. 1067 of Public Law 106–65 (113 Stat. 774).

[38] For text, see *Legislation on Foreign Relations Through 2004*, vol. II.

[39] 22 U.S.C. 5859.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) the Committee on Armed Services, the Committee on Appropriations, the Committee on Foreign Affairs, and the Committee on Energy and Commerce of the House of Representatives.[40]

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

SEC. 510.[41] REPORT ON SPECIAL NUCLEAR MATERIALS.

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

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

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

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

SEC. 511.[42] RESEARCH AND DEVELOPMENT FOUNDATION.

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

[40] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. Sec. 1(a)(4) of that Act similarly provided that reference to the Committee on Energy and Commerce shall be treated as referring to the Committee on Commerce, and sec. 1(a)(5) provided that reference to the Committee on Foreign Affairs shall be treated as referring to the Committee on International Relations. The Committee on National Security subsequently returned to the name "Committee on Armed Services"; see sec. 1067 of Public Law 106–65 (113 Stat. 774).

[41] 22 U.S.C. 5860.

[42] 22 U.S.C. 5861.

foundation (hereinafter in this section referred to as the "Foundation") in consultation with the Director of the National Institute of Standards and Technology.

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

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

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

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

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

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

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

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

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

(d) FUNDING.—

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

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

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

(3) DEBT CONVERSIONS.—To the extent provided in advance by appropriations Acts, local currencies or other assets resulting from government-to-government debt conversions may be made available to the Foundation. For purposes of this paragraph, the term "debt conversion" means an agreement whereby a country's government-to-government or commercial external debt burden is exchanged by the holder for local currencies, policy commitments, other assets, or other economic activities, or for an equity interest in an enterprise theretofore owned by the debtor government.

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

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

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

TITLE VI—SPACE TRADE AND COOPERATION

SEC. 601.[43] FACILITATING DISCUSSIONS REGARDING THE ACQUISITION OF SPACE HARDWARE, TECHNOLOGY, AND SERVICES FROM THE FORMER SOVIET UNION.

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

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

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

[43] 22 U.S.C. 5871.

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

(2) commercial space ventures,

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

SEC. 602.[44] OFFICE OF SPACE COMMERCE.

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

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

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

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

SEC. 603.[45] REPORT TO CONGRESS.

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

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

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

(3) specific space hardware, space technology, and space services that have been, or could be, the subject of discussions described in section 601(c);

(4) the trade missions carried out pursuant to section 602(a), including the private participation in and the results of such missions;

(5) any barriers, regulatory or practical, that inhibit space-related trade between the United States and independent states, including any such barriers in either the United States or the independent states; and

(6) any anticompetitive issues raised during the course of negotiations, as observed pursuant to section 602(b).

SEC. 604.[46] DEFINITIONS.

For purposes of this title—

[44] 22 U.S.C. 5872.
[45] 22 U.S.C. 5873.
[46] 22 U.S.C. 5874.

(1) the term "contractor" means a National Aeronautics and Space Administration contractor to the extent that the acquisition of space hardware, space technology, or space services from the independent states of the former Soviet Union may be relevant to the contractor's responsibilities under the contract; and

(2) the term "designated congressional committees" means the Committee on Science, Space, and Technology and the Committee on Foreign Affairs of the House of Representatives[47] and the Committee on Commerce, Science, and Transportation and the Committee on Foreign Relations of the Senate.

TITLE VII—AGRICULTURAL TRADE

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SEC. 703. ASSISTANCE FOR PRIVATE VOLUNTARY ORGANIZATIONS.

The President is encouraged to use funds made available under section 109 of Public Law 102–229 (105 Stat. 1708), and funds made available under chapter 11 of part I of the Foreign Assistance Act of 1961, to assist private voluntary organizations and cooperatives in carrying out food assistance programs for the independent states of the former Soviet Union under—

(1) section 1110 of the Food Security Act of 1985 (7 U.S.C. 1736o);

(2) section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431); or

(3) title II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1721 et seq.).

SEC. 704. DISTRIBUTION OF AID TO THE INDEPENDENT STATES OF THE FORMER SOVIET UNION.

It is the sense of Congress that, in order to avoid waste and to ensure fair and equitable distribution of food and commodities provided to the independent states of the former Soviet Union, the President should, as appropriate, when discussing and planning the provision of such food aid, whether acting unilaterally or multilaterally with other donor countries, encourage the involvement of suitable multinational organizations to monitor the transport and distribution of such food aid within such entities.

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SEC. 707. DIRECT CREDIT SALES.

(a) * * *

(b) * * *

(c) * * *

[47] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives. Sec. 1(a)(10) of that Act similarly provided that references to the Committee on Science, Space, and Technology shall be treated as referring to the Committee on Science.

(d)[48] * * * [Repealed—1996]

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TITLE VIII—UNITED STATES INFORMATION AGENCY, DEPARTMENT OF STATE, AND RELATED AGENCIES AND ACTIVITIES

SEC. 801.[49] DESIGNATION OF EDMUND S. MUSKIE FELLOWSHIP PROGRAM. * * *

SEC. 802. NEW DIPLOMATIC POSTS IN THE INDEPENDENT STATES.

There are authorized to be appropriated for "NEW DIPLOMATIC POSTS" for personnel, support, and other expenses, not otherwise provided for, for the Department of State and the United States Information Agency to establish and operate new diplomatic posts in the independent states of former Soviet Union, $25,000,000 for fiscal year 1993, which are authorized to remain available until September 30, 1994.

SEC. 803.[50] OCCUPANCY OF NEW CHANCERY BUILDINGS. * * *

SEC. 804. CERTAIN POSITIONS AT UNITED STATES MISSIONS.

(a)[51] AMENDMENT.—* * *

(b)[52] FUNDING.—In addition to the funds made available pursuant to section 1005(c) of that Act, funds authorized to be appropriated by chapter 11 of part I of the Foreign Assistance Act of 1961 may be used in carrying out the amendment made by subsection (a) with respect to missions in the independent states of the former Soviet Union.

SEC. 805.[53] INTERNATIONAL DEVELOPMENT LAW INSTITUTE.

For purposes of the International Organizations Immunities Act (22 U.S.C. 288 and following), the International Development Law Institute shall be considered to be a public international organization in which the United States participates under the authority of an Act of Congress authorizing such participation.

SEC. 806.[54] CERTAIN BOARD FOR INTERNATIONAL BROADCASTING CONSTRUCTION ACTIVITIES. * * *

SEC. 807.[55] EXCHANGES AND TRAINING AND SIMILAR PROGRAMS.

(a) FUNDING FOR EXCHANGES AND TRAINING AND SIMILAR PROGRAMS.—

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[48] 22 U.S.C. 5621 note. Subsecs. (a) through (c) of this section amended the Agricultural Trade Act of 1978 at sec. 201 (7 U.S.C. 5621). Subsec. (d), struck out by sec. 276 of Public Law 104–127 (110 Stat. 977) required that the Secretary of Agriculture issue final regulations to implement section 201 of the Agricultural Trade Act of 1978 not later than 30 days after the date of enactment of this Act.

[49] Sec. 801 amended sec. 227 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (22 U.S.C. 2452 note), relating to the Edmund S. Muskie Fellowship Program.

[50] Sec. 803 repealed subsecs. (f) and (g) of sec. 132 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993.

[51] Sec. 804(a) amended the Omnibus Diplomatic Security and Anti-Terrorism Act of 1986 at sec. 1004(a). For text, see *Legislation on Foreign Relations Through 2004*, vol. II.

[52] 22 U.S.C. 4903 note.

[53] 22 U.S.C. 288j. For International Organizations Immunities Act (Public Law 79–291), see *Legislation on Foreign Relations Through 2004*, vol. II.

[54] Sec. 806 amended the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (104 Stat. 63), at sec. 301(c). For text, see *Legislation on Foreign Relations Through 2004*, vol. II.

[55] 22 U.S.C. 2452 note.

(1) AUTHORIZATION OF APPROPRIATIONS.—To carry out a broad spectrum of exchanges, and of training and similar programs to promote the objectives described in section 498 of the Foreign Assistance Act of 1961, between the United States and the independent states of the former Soviet Union, there are authorized to be appropriated for fiscal year 1993 (in addition to amounts otherwise available for such purposes) the following:

(A) $20,000,000 for exchange programs for secondary school students.

(B) $30,000,000 for programs for participants other than secondary school students, including undergraduate and graduate students, farmers and other agribusiness practitioners, and participants in the exchanges carried out under paragraph (2).

(2) LOCAL AND REGIONAL SELF-GOVERNMENT EXCHANGES.—The Director of the United States Information Agency is authorized to use funds authorized to be appropriated by paragraph (1)(B) to conduct exchanges to provide technical assistance in local and regional self-government to the independent states.

(3) REPORT ON PROPOSED FUNDING ALLOCATIONS.—Within 45 days after the date of the enactment of this Act, the coordinator designated pursuant to section 102(a) of this Act shall submit to the Congress a report specifying the amount of funds authorized to be appropriated by paragraph (1) that is proposed to be allocated for each category of program and for each Government agency.

(4) PROGRAM ADMINISTRATION.—

(A) USIA.—Educational, cultural, and any other exchange programs carried out under this subsection, including any such programs for secondary school students, shall be administered by the United States Information Agency, and funds allocated for such programs shall be transferred to that Agency.

(B) OTHER AGENCIES.—Training and other non-exchange programs carried out under this subsection shall be administered by the Agency for International Development or such other Government agency as has experience and expertise in carrying out such programs.

(5) ADMINISTRATIVE EXPENSES.—Up to 5 percent of the funds made available to each Government agency under this subsection may be used by that agency for administrative expenses of program implementation.

(b) ENHANCEMENT OF USIA EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS.—In addition to amounts otherwise available for such purposes, there are authorized to be appropriated to the United States Information Agency for fiscal year 1993 for enhancement of existing educational and cultural exchange programs the following:

(1) $9,950,000 for Fulbright Academic Exchange Programs.

(2) $10,850,000 for other programs administered by the Bureau of Educational and Cultural Affairs.

(c)[56] REPEAL.—Effective 6 months after the date of enactment of this Act, section 225 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993, and the item relating to that section in the table of contents set forth in section 2 of that Act, are repealed.

(d)[57] AGRIBUSINESS EXCHANGES.—

(1) AUTHORIZATION.—The President is authorized to establish regional agribusiness offices at State universities and land grant colleges in the United States for the purpose of expanding exchanges between agribusiness practitioners in the United States and agribusiness practitioners in the independent states of the former Soviet Union.

(2) LIMITATION ON FUNDING SOURCES.—Funds authorized to be appropriated by this section or other provisions of this Act (including chapter 11 of part I of the Foreign Assistance Act of 1961) may not be used to carry out this subsection.

TITLE IX—OTHER PROVISIONS

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SEC. 902.[58] JOHNSON ACT.

Section 955 of title 18, United States Code, shall not apply with respect to any obligations of the former Soviet Union, or any of the independent states of the former Soviet Union, or any political subdivision, organization, or association thereof.

SEC. 903. SUPPORT FOR EAST EUROPEAN DEMOCRACY (SEED) ACT.

(a) SCOPE OF AUTHORITY.—The Support for East European Democracy (SEED) Act of 1989 is amended by inserting after section 2 (22 U.S.C. 5401) the following: * * *

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SEC. 906.[59] ELIGIBILITY OF BALTIC STATES FOR NONLETHAL DEFENSE ARTICLES.

(a) ELIGIBILITY.—Estonia, Latvia, and Lithuania shall each be eligible—

(1) to purchase, or to receive financing for the purchase of, nonlethal defense articles—

(A) under the Arms Export Control Act (22 U.S.C. 2751 et seq.), without regard to section 3(a)(1) of that Act, or

(B) under section 503 of the Foreign Assistance Act of 1961 (22 U.S.C. 2311), without regard to the requirement in subsection (a) of that section for a Presidential finding; and

(2) to receive nonlethal excess defense articles transferred under section 519 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321m), without regard to the restrictions in subsection (a) of that section.

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[56] 22 U.S.C. 2452 note.

[57] Sec. 4 of Executive Order 12884 of December 1, 1993 (58 F.R. 64099; December 3, 1993) delegated to the Secretary of Agriculture those functions conferred upon the President in sec. 807(d). This delegation of authority is subject to the authority of the Coordinator (as established in sec. 102).

[58] 18 U.S.C. 955 note. For text of the Johnson Act (Public Law 80–772), see *Legislation on Foreign Relations Through 2004*, vol. III.

[59] 22 U.S.C. 2753 note.

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

(1) the term "defense article" has the same meaning given to that term in section 47(3) of the Arms Export Control Act (22 U.S.C. 2794(3)); and

(2) the term "excess defense article" has the same meaning given to that term in section 644(g) of the Foreign Assistance Act of 1961 (22 U.S.C. 2403(g)).

SEC. 907.[60] RESTRICTION ON ASSISTANCE TO AZERBAIJAN.

United States assistance under this or any other Act (other than assistance under title V of this Act) may not be provided to the

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[60] 22 U.S.C. 5812 note. Section 1(a)(1) of Executive Order 12884 of December 1, 1993 (58 F.R. 64099; December 3, 1993) delegated to the Secretary of State those functions conferred upon the President in sec. 907.

Title II of the Kenneth M. Ludden Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107–115; 115 Stat. 2129), under assistance for the independent states of the former Soviet Union, provided the following:

"(g)(1) Section 907 of the FREEDOM Support Act shall not apply to—

"(A) activities to support democracy or assistance under title V of the FREEDOM Support Act and section 1424 of Public Law 104–201 or non-proliferation assistance;

"(B) any assistance provided by the Trade and Development Agency under section 661 of the Foreign Assistance Act of 1961 (22 U.S.C. 2421);

"(C) any activity carried out by a member of the United States and Foreign Commercial Service while acting within his or her official capacity;

"(D) any insurance, reinsurance, guarantee or other assistance provided by the Overseas Private Investment Corporation under title IV of chapter 2 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2191 et seq.);

"(E) any financing provided under the Export-Import Bank Act of 1945; or

"(F) humanitarian assistance.

"(2) The President may waive section 907 of the FREEDOM Support Act if he determines and certifies to the Committees on Appropriations that to do so—

"(A) is necessary to support United States efforts to counter international terrorism; or

"(B) is necessary to support the operational readiness of United States Armed Forces or coalition partners to counter international terrorism; or

"(C) is important to Azerbaijan's border security; and

"(D) will not undermine or hamper ongoing efforts to negotiate a peaceful settlement between Armenia and Azerbaijan or be used for offensive purposes against Armenia.

"(3) The authority of paragraph (2) may only be exercised through December 31, 2002.

"(4) The President may extend the waiver authority provided in paragraph (2) on an annual basis on or after December 31, 2002 if he determines and certifies to the Committees on Appropriations in accordance with the provisions of paragraph (2).

"(5) The Committees on Appropriations shall be consulted prior to the provision of any assistance made available pursuant to paragraph (2).

"(6) Within 60 days of any exercise of the authority under paragraph (2) the President shall send a report to the appropriate congressional committees specifying in detail the following—

"(A) the nature and quantity of all training and assistance provided to the Government of Azerbaijan pursuant to paragraph (2);

"(B) the status of the military balance between Azerbaijan and Armenia and the impact of United States assistance on that balance; and

"(C) the status of negotiations for a peaceful settlement between Armenia and Azerbaijan and the impact of United States assistance on those negotiations.".

The President issued such a waiver, pursuant to subsec. (g)(2) of that Act, on January 25, 2002 (Presidential Determination No. 2002–06; 67 F.R. 5921); on January 17, 2003 (Presidential Determination No. 2003–12; 68 F.R. 3803); on December 30, 2003 (Presidential Determination No. 2004–18; 69 F.R. 2057); and on January 13, 2005 (Presidential Determination No. 2005–18; 70 F.R. 3853).

Previously, title I of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (sec. 101(d) of Public Law 105–277; 112 Stat. 2681–152), provided the following:

"OVERSEAS PRIVATE INVESTMENT CORPORATION

"NONCREDIT ACCOUNT

"The Overseas Private Investment Corporation is authorized to make, without regard to fiscal year limitations, as provided by 31 U.S.C. 9104, such expenditures and commitments within the limits of funds available to it and in accordance with law as may be necessary: *Provided,* That the amount available for administrative expenses to carry out the credit and insurance programs (including an amount for official reception and representation expenses which shall not exceed $35,000) shall not exceed $32,500,000 of which not more than $27,500,000 may be made available until the Corporation reports to the Committees on Appropriations on measures taken to (1) establish sector specific investment funds; and (2) support regional investment initiatives

Continued

Government of Azerbaijan until the President determines, and so reports to the Congress, that the Government of Azerbaijan is taking demonstrable steps to cease all blockades and other offensive uses of force against Armenia and Nagorno-Karabakh.

TITLE X—INTERNATIONAL FINANCIAL INSTITUTIONS

NOTE.—Title X amended several Public Laws relating to international financial institutions. See International Financial Institutions in *Legislation on Foreign Relations Through 2004*, vol. III.

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SEC. 1004.[61] SUPPORT FOR MACROECONOMIC STABILIZATION IN THE INDEPENDENT STATES OF THE FORMER SOVIET UNION.

(a) IN GENERAL.—In order to promote macroeconomic stabilization and the integration of the independent states of the former Soviet Union into the international financial system, enhance the opportunities for trade, improve the climate for foreign investment, and strengthen the process of transformation of the former socialist economies into free enterprise systems and thereby progressively enhance the well-being of the citizens of these states, the United States should in appropriate circumstances take a leading role in organizing and supporting multilateral efforts at macroeconomic stabilization and debt rescheduling, conditioned on the appropriate development and implementation of comprehensive economic reform programs.

(b) CURRENCY STABILIZATION.—In furtherance of the purposes and consistent with the conditions described in subsection (a), the Congress expresses its support for United States participation, in sums of up to $3,000,000,000, in a currency stabilization fund or funds for the independent states of the former Soviet Union.

(c) STUDY OF THE NEED FOR AND FEASIBILITY OF A CURRENCY STABILIZATION FUND FOR UKRAINE.—The Secretary of the Treasury shall instruct the United States Executive Director of the International Monetary Fund to use the voice and vote of the United States to urge the Fund to conduct a study of the need for and feasibility of a currency stabilization fund for Ukraine, and, if it is found that such a fund is needed and is feasible, which considers and makes recommendations with respect to the economic and policy conditions required for the success of such a fund.

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in Georgia, Armenia and Azerbaijan through the Caucasus Fund: *Provided further,* That project-specific transaction costs, including direct and indirect costs incurred in claims settlements, and other direct costs associated with services provided to specific investors or potential investors pursuant to section 234 of the Foreign Assistance Act of 1961, shall not be considered administrative expenses for the purposes of this heading.".

[61] 22 U.S.C. 5812 note.

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SEC. 1007.[62] REPORT ON DEBT OF THE FORMER SOVIET UNION HELD BY COMMERCIAL FINANCIAL INSTITUTIONS.

The Secretary of the Treasury, using information available from the International Monetary Fund, the International Bank for Reconstruction and Development, and other appropriate international financial institutions, shall report to the Congress, not later than one year after the date of enactment of this Act, on the debt incurred by the former Soviet Union that is held by commercial financial institutions outside the independent states of the former Soviet Union that are obligated on such debt.

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SEC. 1009. MULTILATERAL INVESTMENT GUARANTEES FOR THE INDEPENDENT STATES OF THE FORMER SOVIET UNION.

Not later than 60 days after the date of enactment of this Act, the United States Director of the Multilateral Investment Guarantee Agency shall transmit to the Congress a report analyzing—

(1) the investments in the independent states of the former Soviet Union which have been guaranteed by the Agency; and

(2) the demand for investment guarantees of the type provided by the Agency for investments in the independent states.

[62] 22 U.S.C. 5812 note.

(5) Emergency Airlift to the Soviet Union

Partial text[1] of Public Law 102–228 [Conventional Forces in Europe Treaty Implementation Act of 1991; H.R. 3807], 105 Stat. 1691, approved December 12, 1991

AN ACT To amend the Arms Export Control Act to authorize the President to transfer battle tanks, artillery pieces, and armored combat vehicles to member countries of the North Atlantic Treaty Organization in conjunction with implementation of the Treaty on Conventional Armed Forces in Europe.

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

SECTION 1.[2] SHORT TITLE.

This Act may be cited as the "Conventional Forces in Europe Treaty Implementation Act of 1991".

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TITLE III—EMERGENCY AIRLIFT AND OTHER SUPPORT

SEC. 301.[3] AUTHORITY TO TRANSFER CERTAIN FUNDS TO PROVIDE EMERGENCY AIRLIFT AND OTHER SUPPORT.

(a) FINDINGS.—The Congress finds—

(1) that political and economic conditions within the Soviet Union and its republics are unstable and are likely to remain so for the foreseeable future;

(2) that these conditions could lead to the return of anti-democratic forces in the Soviet Union;

(3) that one of the most effective means of preventing such a situation is likely to be the immediate provision of humanitarian assistance; and

(4) that should this need arise, the United States should have funds readily available to provide for the transport of such assistance to the Soviet Union, its republics, and any successor entities.

(b) AUTHORITY TO TRANSFER CERTAIN FUNDS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Defense, at the direction of the President, may during fiscal year 1992, to the extent provided in an appropriations Act or joint resolution, transfer to the appropriate

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[1] See also *Legislation on Foreign Relations Through 2004*, vol. II.

[2] 22 U.S.C. 2751 note.

[3] While this section was enacted to authorize the transfer of funds for Soviet humanitarian assistance, Public Law 102–229 (105 Stat. 1701) originally referred to sec. 301 of H.R. 3807, as passed by the Senate on November 25, 1991, when it appropriated funds or transferred funds for that assistance. In a January 21, 1992, memorandum for the Secretary of Defense (57 F.R. 3111; January 28, 1992), the President also referred to sec. 301 of H.R. 3807, as passed by the Senate on November 25, 1991, when he directed the Secretary of Defense to make certain transfers, and delegated certain authorities and duties to the Secretary.

Subsequently, sec. 1421(b) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2565) made technical corrections to Public Law 102–229 to omit references to H.R. 3807 and insert in lieu thereof references to this Act.

defense accounts sufficient funds, not to exceed $100,000,000, from funds described in paragraph (3) in order to transport, by military or commercial means, food, medical supplies, and other types of humanitarian assistance to the Soviet Union, its republics, or any successor entities—with the consent of the relevant republic government or independent successor entity—in order to address emergency conditions which may arise in such republic or successor entity, as determined by the President. As used in this subsection, the term "humanitarian assistance" does not include construction equipment, including tractors, scrapers, loaders, graders, bulldozers, dumptrucks, generators, and compressors.

(2) REPORTS BY THE SECRETARY OF STATE.—The Secretary of State shall promptly report to the President regarding any emergency conditions which may require such humanitarian assistance. The Secretary's report shall include an estimate of the extent of need for such assistance, discuss whether the consent of the relevant republic government or independent successor entity has been given for the delivery of such assistance, describe steps other nations and organizations are prepared to take in response to an emergency, and discuss the foreign policy implications, if any, of providing such assistance.

(3) SOURCE OF FUNDS.—Any funds which are transferred pursuant to this subsection shall be drawn from amounts appropriated to the Department of Defense for fiscal year 1992 or from balances in working capital accounts established under section 2208 of title 10, United States Code.

(4) EMERGENCY REQUIREMENTS.—The Congress designates all funds transferred pursuant to this section as "emergency requirements" for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985. Notwithstanding any other provision of law, funds shall be available for transfer pursuant to this section only if, not later than the date of enactment of the appropriations Act or joint resolution that makes funds available for transfer pursuant to this section, the President, in a single designation, designates the entire amount of funds made available for such transfer by that appropriations Act or joint resolution to be "emergency requirements" for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

(c) REPAYMENT ARRANGEMENTS.—

(1) REIMBURSEMENT ARRANGEMENTS.—Assistance provided under subsection (b) to the Soviet Union, any of its republics, or any successor entity shall be conditioned, to the extent that the President determines to be appropriate after consultation with the recipient government, upon the agreement of the recipient government to reimburse the United States Government for the cost of such assistance from natural resources or other materials available to the recipient government.

(2) NATURAL RESOURCES, ETC.—The President shall encourage the satisfaction of such reimbursement arrangements

through the provision of natural resources, such as oil and petroleum products and critical and strategic materials, and industrial goods. Materials received by the United States Government pursuant to this subsection that are suitable for inclusion in the Strategic Petroleum Reserve or the National Defense Stockpile may be deposited in the reserve or stockpile without reimbursement. Other material and services received may be sold or traded on the domestic or international market with the proceeds to be deposited in the General Fund of the Treasury.

(d) DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS.—It is the sense of the Senate that the committee of conference on House Joint Resolution 157 should consider providing the necessary authority in the conference agreement for the Secretary of Defense to transfer funds pursuant to this title.

SEC. 302. REPORTING REQUIREMENTS.

(a) PRIOR NOTICE.—Before any funds are transferred for the purposes authorized in section 301(b), the President shall notify the Committees on Armed Services and the Committees on Appropriations of the Senate and the House of Representatives[4] of the account, budget activity, and particular program or programs from which the transfer is planned to be made and the amount of the transfer.

(b) REPORTS TO THE CONGRESS.—Within ten days after directing the Secretary of Defense to transfer funds pursuant to section 301(b), the President shall provide a report to the Committees on Armed Services of the Senate and House of Representatives, the Committees on Appropriations of the Senate and House of Representatives, and the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.[5] This report shall at a minimum, set forth—

(1) the amount of funds transferred under this title, including the source of such funds;

(2) the conditions which prompted the use of this authority;

(3) the form and number of lift assets planned to be used to deliver assistance pursuant to this title;

(4) the types and purpose of the cargo planned to be delivered pursuant to this title; and

(5) the locations, organizations, and political institutions to which assistance is planned to be delivered pursuant to this title.

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[4] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. The Committee on National Security subsequently returned to the name "Committee on Armed Services"; see sec. 1067 of Public Law 106–65 (113 Stat. 774).

[5] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. Sec. 1(a)(5) of that Act similarly provided that references to the Committee on Foreign Affairs shall be treated as referring to the Committee on International Relations. The Committee on National Security subsequently returned to the name "Committee on Armed Services"; see sec. 1067 of Public Law 106–65 (113 Stat. 774).

(6) Soviet-Eastern European Education and Training Programs in the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993

Partial text of Public Law 102–138 [H.R. 1415], 105 Stat. 647, approved October 28, 1991; amended by Public Law 102–511 [FREEDOM Support Act; S. 2532], 106 Stat. 3320, approved October 24, 1992; and by Public Law 105–277 [Foreign Relations Authorization Act, Fiscal Years 1998 and 1999; H.R. 4328], 112 Stat. 2681, approved October 21, 1998

AN ACT To authorize appropriations for fiscal years 1992 and 1993 for the Department of State, and for other purposes.

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

* * * * * * *

TITLE II—UNITED STATES INFORMATIONAL, EDUCATIONAL, AND CULTURAL PROGRAMS

PART A—UNITED STATES INFORMATION AGENCY

SEC. 210.[1] CLAUDE AND MILDRED PEPPER SCHOLARSHIP PROGRAM.

(a) PURPOSE.—It is the purpose of this section to provide Federal financial assistance to facilitate a program to enable high school and college students from emerging democracies, who are visiting the United States, to spend from one to two weeks in Washington, District of Columbia, observing and studying the workings and operations of the democratic form of government of the United States.

(b) GRANTS.—The Director of the United States Information Agency is authorized to make grants to the Claude and Mildred Pepper Scholarship Program of the Washington Workshops Foundation to carry out the purpose specified in subsection (a).

(c)[2] AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 for fiscal year 1992 to carry out this section, of which not more than $500,000 is authorized to be available for obligation or expenditure during that fiscal year. Amounts appropriated pursuant to this subsection are authorized to be available until expended.

* * * * * * *

[1] 22 U.S.C. 2452 note.

[2] The Department of State and Related Agencies Appropriations Act, 1993 (title V of Public Law 102–395; 106 Stat. 1870), provided under educational and cultural exchange programs, that "$200,000 shall be available for the Claude and Mildred Pepper Scholarship Program of the Washington Workshops Foundation".

PART B—BUREAU OF EDUCATIONAL AND CULTURAL AFFAIRS

SEC. 221. AUTHORIZATION OF APPROPRIATIONS.

In addition to amounts otherwise made available under section 201 for such purposes, there are authorized to be appropriated to the Bureau of Educational and Cultural Affairs to carry out the purposes of the Mutual Educational and Cultural Exchange Act of 1961 the following amounts: * * *[3]

(5) OTHER PROGRAMS.—For "East Europe Training Projects", "Citizen Exchange Programs", and the "Congress-Bundestag Exchange Program", $14,028,000 for the fiscal year 1992 and $14,700,000 for the fiscal year 1993.

* * * * * * *

(9) SOVIET-AMERICAN INTERPARLIAMENTARY EXCHANGES.—For the expenses of Soviet-American Interparliamentary meetings and visits in the United States approved by the joint leadership of the Congress, after an opportunity for appropriate consultation with the Secretary of State and the Director of the United States Information Agency, there are authorized to be appropriated $2,000,000 for the fiscal year 1992, of which not more than $1,000,000 shall be available for obligation or expenditure during that fiscal year. Amounts appropriated under this subsection are authorized to be available until expended.

* * * * * * *

[3] The Department of State and Related Agencies Appropriations Act, 1992 (title V of Public Law 102–140; 105 Stat. 822), provided the following:

"EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

"For expenses of Fulbright, International Visitor, Humphrey Fellowship, Citizen Exchange, and Congress-Bundestag Exchange Programs, as authorized by the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2451 et seq.), and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), $194,232,000, to remain available until expended as authorized by 22 U.S.C. 2455, of which $1,000,000 shall be available for the Claude and Mildred Pepper Scholarship Program of the Washington Workshops Foundation.".

The Department of State and Related Agencies Appropriations Act, 1993 (title V of Public Law 102–395; 106 Stat. 1870), provided the following:

"EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

"For expenses of Fulbright, International Visitor, Humphrey Fellowship, Citizen Exchange, and Congress-Bundestag Exchange Programs, as authorized by the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2451 et seq.), and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), $223,447,000, to remain available until expended as authorized by 22 U.S.C. 2455, of which $200,000 shall be available for the Claude and Mildred Pepper Scholarship Program of the Washington Workshops Foundation and $600,000 shall be available for the Institute of Representative Government.".

SEC. 225.[4] * * * [Repealed—1992]

SEC. 226.[5] **ENHANCED EDUCATIONAL EXCHANGE PROGRAM.**

(a) PROGRAMS FOR FOREIGN STUDENTS AND SCHOLARS.—

(1) Not later than September 30, 1993, the number of scholarships provided to foreign students and scholars by the Bureau of Educational and Cultural Affairs of the United States Information Agency for the purpose of study, research, or teaching in the United States shall be increased by 100 over the number of such scholarships provided in fiscal year 1991, subject to the availability of appropriations.

(2) Scholarships provided to meet the requirements of paragraph (1) shall be available only—

(A) to students and scholars from the new democracies of Eastern Europe,

(B) to students and scholars from the Soviet Union;

(C) to students and scholars from countries determined by the Associate Director of the Bureau of Educational and Cultural Affairs to be not adequately represented in the foreign student population in the United States.

(b) PROGRAMS FOR UNITED STATES STUDENTS AND SCHOLARS.—

(1) Not later than September 30, 1993, the number of scholarships provided to United States students and scholars by the Bureau of Educational and Cultural Affairs of the United States Information Agency for the purpose of study, research,

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[4] Formerly at 22 U.S.C. 2452 note. Sec. 807(c) of the FREEDOM Support Act (Public Law 102–511; 3354) repealed sec. 225, effective 6 months after the date of enactment of that Act [enacted October 24, 1992].

Sec. 225 formerly read as follows:

"EASTERN EUROPE STUDENT EXCHANGE ENDOWMENT FUND.

"(a) ESTABLISHMENT OF FEDERAL ENDOWMENT.—The Director of the United States Information Agency is authorized to establish an endowment fund (hereafter in this section referred to as the 'fund'), in accordance with the provisions of this section, to support an exchange program among secondary school students from the United States and secondary school students from former Warsaw Pact countries in Eastern Europe, including from the territory formerly known as East Germany. The Director may enter into such agreements as may be necessary to carry out the purposes of this section.

"(b) TRANSFER.—

"(1) APPROPRIATIONS AND OTHER AVAILABLE FUNDS.—The Director shall transfer to the fund the amounts appropriated pursuant to the authority of subsection (f) to carry out the exchange program under this section.

"(2) GIFTS.—(A) The Director is authorized to accept, use, and dispose of gifts of donations of services or property to carry out the provisions of this section.

"(B) Any sums received by the Director pursuant to subparagraph (A) shall be transferred to the fund.

"(3) IN GENERAL.—The Director in investing the corpus and income of the fund, shall exercise the judgment and care, under the prevailing circumstances, which a person of prudence, discretion, and intelligence would exercise in the management of that person's own business affairs.

"(4) SPECIAL RULE.—The fund corpus and income shall be invested in federally insured bank savings accounts or comparable interest bearing accounts, certificates of deposit, money market funds, mutual funds, obligations of the United States, or other low-risk instruments and securities.

"(c) WITHDRAWALS AND EXPENDITURES.—The Director may withdraw or expend amounts from the fund for any expenses necessary to carry out the exchange program described in subsection (a).

"(d) DEFINITIONS.—For the purposes of this section—

"(1) the term 'secondary school' has the same meaning given to such term by section 1471(21) of the Elementary and Secondary Education Act of 1965; and

"(2) the term 'Director' means the Director of the United States Information Agency.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 to carry out the provisions of this section. Funds appropriated pursuant to this subsection are authorized to be available until expended.".

[5] 22 U.S.C. 2452 note.

or teaching in other countries shall be increased by 100 over the number of such scholarships provided in fiscal year 1991, subject to the availability of appropriations.

(2) Scholarships provided to meet the requirements of paragraph (1) shall be available only for study, research, and teaching in the new democracies of Eastern Europe, the Soviet Union, and non-European countries.

(c) DEFINITION.—For the purposes of this section, the term "scholarship" means an amount to be used for full or partial support of tuition and fees to attend an educational institution, and may include fees, books and supplies, equipment required for courses at an educational institution, and living expenses at a United States or foreign educational institution.

(d) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts otherwise authorized to be appropriated for the Bureau of Educational and Cultural Affairs, there are authorized to be appropriated $2,000,000 for fiscal year 1992 and $2,000,000 for fiscal year 1993 to carry out the purposes of this section. Amounts appropriated under this subsection are authorized to be available until expended.

SEC. 227.[5] LAW AND BUSINESS TRAINING PROGRAM FOR GRADUATE STUDENTS FROM THE INDEPENDENT STATES OF THE FORMER[6] SOVIET UNION, LITHUANIA, LATVIA, AND ESTONIA.

(a) STATEMENT OF PURPOSE.—The purpose of this section is to establish a scholarship program designed to bring students from the independent states of the former Soviet Union,[7] Lithuania, Latvia, and Estonia to the United States for study in the United States.

(b) SCHOLARSHIP PROGRAM AUTHORITY.—Subject to the availability of appropriations under subsection (d), the President, acting through the United States Information Agency, shall provide scholarships (including partial assistance) for study at United States institutions of higher education together with private and public sector internships by nationals of the independent states of the former Soviet Union,[7] Lithuania, Latvia, and Estonia who have completed their undergraduate education and would not otherwise have the opportunity to study in the United States due to financial limitations.

(c) GUIDELINES.—The scholarship program under this section shall be carried out in accordance with the following guidelines:

(1) Consistent with section 112(b) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2460(b)), all programs created pursuant to this Act shall be nonpolitical and balanced, and shall be administered in keeping with the highest standards of academic integrity and cost-effectiveness.

(2) The United States Information Agency shall design ways to identify promising students for study in the United States.

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[6] Sec. 2413(b)(3) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105–277; 112 Stat. 2681–832), inserted "**INDEPENDENT STATES OF THE FORMER**" in the section catchline.

[7] Sec. 2413(b)(1) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105–277; 112 Stat. 2681–832), struck out "Soviet Union" each place it appears in subsecs. (a), (b), and (c)(5), and inserted in lieu thereof "independent states of the former Soviet Union".

(3) The United States Information Agency should develop and strictly implement specific financial need criteria. Scholarships under this Act may only be provided to students who meet the financial need criteria.

(4) The program may utilize educational institutions in the United States, if necessary, to help participants acquire necessary skills to fully participate in professional training.

(5) Each participant shall be selected on the basis of academic and leadership potential in the fields of business administration, journalism and communications, education administration, public policy, library and information science,[8] economics, law, or public administration. Scholarship opportunities shall be limited to fields that are critical to economic reform and political development in the independent states of the former Soviet Union,[7] Lithuania, Latvia, and Estonia, particularly business administration, journalism and communications, education administration, public policy, library and information science,[8] economics, law, or public administration.

(6) The program shall be flexible to include not only training and educational opportunities offered by universities in the United States, but to also support internships, education, and training in a professional setting.

(7) The program shall be flexible with respect to the number of years of education financed, but in no case shall students be brought to the United States for less than one year.

(8) Further allowance shall be made in the scholarship for the purchase of books and related educational material relevant to the program of study.

(9) Further allowance shall be made to provide opportunities for professional, academic, and cultural enrichment for scholarship recipients.

(10) The program shall, to the maximum extent practicable, offer equal opportunities for both male and female students to study in the United States.

(11) The program shall, to the maximum extent practicable, offer equal opportunities for students from each of the independent states of the former Soviet Union,[9] Lithuania, Latvia, and Estonia.

(12) The United States Information Agency shall recommend to each student who receives a scholarship under this section that the student include in their course of study programs which emphasize the ideas, principles, and documents upon which the United States was founded.

(d) FUNDING OF SCHOLARSHIPS FOR FISCAL YEAR 1992 AND FISCAL YEAR 1993.—There are authorized to be appropriated to the United States Information Agency $7,000,000 for fiscal year 1992, and $7,000,000 for fiscal year 1993, to carry out this section.

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[8] Sec. 2413(a) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105–277; 112 Stat. 2681–832), inserted "journalism and communications, education administration, public policy, library and information science," after "business administration".

[9] Sec. 2413(b)(2) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105–277; 112 Stat. 2681–832), struck out "Soviet republics" and inserted in lieu thereof "independent states of the former Soviet Union".

(e) COMPLIANCE WITH CONGRESSIONAL BUDGET ACT.—Any authority provided by this section shall be effective only to the extent and in such amounts as are provided in advance in appropriation Acts.

(f)[10] DESIGNATION OF PROGRAM AND SCHOLARSHIPS.—

(1) The scholarship program established by this section shall be known as the "Edmund S. Muskie Fellowship Program".

(2) Scholarships provided under this section shall be known as "Muskie Fellowships".

* * * * * * *

[10] Sec. 801 of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3352) added subsec. (f).

(7) Eisenhower Exchange Fellowship Act of 1990

Public Law 101–454 [S. 2017], 104 Stat. 1063, approved October 24, 1990; amended by Public Law 104–72 [S. 1465], 109 Stat. 776, approved December 23, 1995; Public Law 104–99 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996; H.R. 1868], enacted by reference in sec. 301 of H.R. 2880, 110 Stat. 26, approved January 26, 1996, enacted again as Public Law 104–107 [H.R. 1868], 110 Stat. 704, approved February 12, 1996; Public Law 104–134 [H.R. 3019; Omnibus Consolidated Rescissions and Appropriations Act of 1996, title I, sec. 101(a), title IV, Department of State and Related Agencies Appropriations Act, 1996], 110 Stat. 1321 at 1321–36, approved April 26, 1996

AN ACT To provide a permanent endowment for the Eisenhower Exchange Fellowship Program.

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

SECTION 1.[1] SHORT TITLE.

This Act may be cited as the "Eisenhower Exchange Fellowship Act of 1990".

SEC. 2.[2] PURPOSES.

The purposes of this Act are—

(1) to provide a permanent endowment for the Eisenhower Exchange Fellowship Program;

(2) to honor Dwight D. Eisenhower for his character, courage, and patriotism, and for his leadership based on moral integrity and trust;

(3) to pay tribute to President Eisenhower's leadership in war and peace, through his diverse understanding of history, practical affairs, and the hearts of humankind;

(4) to address America's need for the best possible higher education of its young talent for a competitive world which shares a common and endangered environment;

(5) to advance the network of friendship and trust already established in President Eisenhower's name, so that it may continue to grow to the imminent challenges of the 21st century;

(6) to complete Dwight David Eisenhower's crusade to liberate the people's[3] of Europe from oppression;

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[1] 20 U.S.C. 5201 note.

[2] 20 U.S.C. 5201. Sec. 1203 of the 2002 Supplemental Appropriations Act for Further Recovery From and Response To Terrorist Attacks on the United States (Public Law 107–206; 116 Stat. 888; 20 U.S.C. 5207) provided the following:

"SEC. 1203. Notwithstanding any other provision of law, hereafter, for purposes of section 201(a) of the Federal Property and Administrative Services Act of 1949 (relating to Federal sources of supply, including lodging providers, airlines and other transportation providers), the Eisenhower Exchange Fellowship Program shall be deemed an executive agency for the purposes of carrying out the provisions of 20 U.S.C. 5201, and the employees of and participants in the Eisenhower Exchange Fellowship Program shall be eligible to have access to such sources of supply on the same basis as employees of an executive agency have such access.".

[3] So in original. Should read peoples.

(7) to deepen and expand relationships with European nations developing democracy and self-determination; and

(8) to honor President Dwight D. Eisenhower on the occasion of the centennial of his birth through permanent endowment of an established fellowship program, the Eisenhower Exchange Fellowships, to increase educational opportunities for young leaders in preparation for and enhancement of their professional careers, and advancement of peace through international understanding.

SEC. 3.[4] EISENHOWER EXCHANGE FELLOWSHIP PROGRAM TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund to be known as the Eisenhower Exchange Fellowship Program Trust Fund (hereinafter in this Act referred to as the "fund"). The fund shall consist of amounts authorized to be appropriated under section 5 of this Act.

(b) INVESTMENT IN INTEREST BEARING OBLIGATIONS.—It shall be the duty of the Secretary of the Treasury to invest in full amounts appropriated to the fund. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interests[5] by the United States. For such purpose, such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under chapter 31 of title 31, are hereby extended to authorize the issuance at par of special obligations exclusively to the fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 percent, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary determines that the purchase of other than interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States or original issue or at the market price, is not in the public interest.

(c) SALE AND REDEMPTION OF OBLIGATIONS.—Any obligation acquired by the fund (except special obligations issued exclusively to the fund) may be sold by the Secretary of the Treasury at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) CREDIT TO THE FUND OF INTEREST AND PROCEEDS OF SALE OR REDEMPTION.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the fund shall be credited to and form a part of the fund.

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[4] 20 U.S.C. 5202.

[5] Should probably read "interest".

SEC. 4.[6] EXPENDITURE AND AUDIT OF TRUST FUND.

(a) AUTHORIZATION OF FUNDING.—For each fiscal year, there is authorized to be appropriated from the fund to Eisenhower Exchange Fellowships, Incorporated, the interest and earnings of the fund.

(b) ACCESS TO BOOKS, RECORDS, ETC. BY GENERAL ACCOUNTING OFFICE.[7]—The activities of Eisenhower Exchange Fellowships, Incorporated, may be audited by the General Accounting Office[7] under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office[7] shall have access to all books, accounts, records, reports, and files and all other papers, things, or property belonging to or in use by Eisenhower Exchange Fellowships, Incorporated, pertaining to such activities and necessary to facilitate the audit.

SEC. 5.[8] AUTHORIZATION OF APPROPRIATIONS.

To provide a permanent endowment for the Eisenhower Exchange Fellowship Program, there are authorized to be appropriated to the Eisenhower Exchange Fellowships Program Trust Fund—

(1) $2,500,000, or

(2) the lesser of—

(A) $2,500,000, or

(B) an amount equal to contributions to Eisenhower Exchange Fellowships, Incorporated, from private sector sources during the 4-year period beginning on the date of enactment of this Act.

SEC. 6.[9] USE OF INCOME ON THE ENDOWMENT.

(a)[10] * * * [Repealed—1996]

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[6] 20 U.S.C. 5203.

[7] Sec. 8 of the GAO Human Capital Reform Act of 2004 (Public Law 108–271; 118 Stat. 814) redesignated the "General Accounting Office" as the "Government Accountability Office" and provided that "Any reference to the General Accounting Office in any law, rule, regulations, certificate, directive, instruction, or other official paper in force on the date of enactment of this Act shall be considered to refer and apply to the Government Accountability Office.".

[8] 20 U.S.C. 5204. The Department of State and Related Agency Appropriations Act, 2005 (title IV of division B of Public Law 108–447; 118 Stat. 2809), provided the following:

"EISENHOWER EXCHANGE FELLOWSHIP PROGRAM TRUST FUND

"For necessary expenses of Eisenhower Exchange Fellowships, Incorporated, as authorized by sections 4 and 5 of the Eisenhower Exchange Fellowship Act of 1990 (20 U.S.C. 5204–5205), all interest and earnings accruing to the Eisenhower Exchange Fellowship Program Trust Fund on or before September 30, 2005, to remain available until expended: *Provided*, That none of the funds appropriated herein shall be used to pay any salary or other compensation, or to enter into any contract providing for the payment thereof, in excess of the rate authorized by 5 U.S.C. 5376; or for purposes which are not in accordance with OMB Circulars A–110 (Uniform Administrative Requirements) and A–122 (Cost Principles for Non-profit Organizations), including the restrictions on compensation for personal services.".

[9] 20 U.S.C. 5205.

[10] Sec. 407 of the Department of State and Related Agencies Appropriations Act, 1996 (title IV of Public Law 104–134; 110 Stat. 1321–45), repealed subsecs. 6(a) and (b). The subsecs. had read as follows:

"(a) REQUIREMENT FOR FUNDING OF UNITED STATES FELLOWS IN EMERGING EUROPEAN DEMOCRACIES.—For any fiscal year, not less than 50 percent of the amounts made available to Eisenhower Exchange Fellowships, Incorporated, pursuant to section 4(a) shall be available only to assist United States fellows in traveling to and studying in emerging European democracies.

"(b) LIMITATION ON STUDY IN UNITED STATES.—For any fiscal year, not more than 50 percent of the amounts made available to Eisenhower Exchange Fellowships, Incorporated, pursuant to section 4(a) shall be available to assist foreign fellows in traveling to and studying in the United States.".

Sec. 407 of Public Law 104–134 further provided:

Continued

(b)[10] * * * [Repealed—1996]

(c) AGRICULTURAL EXCHANGE PROGRAM.—For any fiscal year, as may be determined by Eisenhower Exchange Fellowships, Incorporated, a portion of the amounts made available to Eisenhower Exchange Fellowships, Incorporated, pursuant to section 4(a) shall be used to provide fellowships for agricultural exchange programs for farmers from the United States and foreign countries.

(d) PARTICIPATION BY UNITED STATES MINORITY POPULATIONS.—In order to ensure that the United States fellows participating in programs of the Eisenhower Exchange Fellowships, Incorporated, are representatives of the cultural, ethnic, and racial diversity of the American people, of the amounts made available to Eisenhower Exchange Fellowships, Incorporated, pursuant to section 4(a) which are obligated and expended for United States fellowship programs, not less than 10 percent shall be available only for participation by individuals who are representative of United States minority populations.

SEC. 7.[11] REPORT TO CONGRESS.

For any fiscal year for which Eisenhower Exchange Fellowships, Incorporated, receive funds pursuant to section 4(a) of this Act, Eisenhower Exchange Fellowships, Incorporated, shall prepare and transmit to the President and the Congress a report of its activities for such fiscal year.

SEC. 8.[12] [Repealed—1995]

* * * * * * *

"SEC. 407. Sections 6(a) and 6(b) of Public Law 101–454 are repealed. In addition, notwithstanding any other provision of law, Eisenhower Exchange Fellowships, Incorporated, may use one-third of any earned but unused trust income from the period 1992 through 1995 for Fellowship purposes in each of fiscal years 1996 through 1998.".

[11] 20 U.S.C. 5206.

[12] Sec. 1(a) of Public Law 104–72 (109 Stat. 776) repealed sec. 8, which had extended the authority of USIA to implement an au pair program.

(8) Assistance to Eastern Europe and Yugoslavia

Partial text of Public Law 101–243 [Urgent Assistance for Democracy in Panama Act of 1990; H.R. 3952], 104 Stat. 7, approved February 14, 1990

AN ACT To authorize certain United States assistance and trade benefits for Panama and for other purposes.

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

SECTION 1. SHORT TITLE

This Act may be cited as the "Urgent Assistance for Democracy in Panama Act of 1990".

TITLE I—PANAMA [1]

* * * * * * *

TITLE II—EASTERN EUROPE AND YUGOSLAVIA

SEC. 201. ASSISTANCE TO SUPPORT TRANSITION TO DEMOCRACY.

(a) AUTHORITY.—Notwithstanding any other provision of law, the President may use up to $10,000,000 of the funds appropriated for fiscal year 1990 to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund) to support the process of democratic transition in East European countries and Yugoslavia, in addition to amounts otherwise available for such purposes.

(b) LIMITATION.—Funds provided under this section shall be made available only—

(1) after the President has certified to the Congress that the country where funds are being expended has had, or is scheduled to have, open and free multiparty national or regional elections; and

(2) in such a manner so as to benefit substantially a full range of non-Communist political parties in the countries in which such funds are used.

[1] Title I may be found at page 266.

(9) Support for East European Democracy (SEED) Act of 1989

Public Law 101–179 [H.R. 3402], 103 Stat. 1298, approved November 28, 1989; amended by Public Law 102–511 [FREEDOM Support Act; S. 2532], 106 Stat. 3320, approved October 24, 1992; Public Law 102–549 [Jobs Through Exports Act of 1992; H.R. 4996], 106 Stat. 3651, approved October 28, 1992; Public Law 104–99 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996, H.R. 1868, enacted by reference in sec. 301 of Public Law 104–99; H.R. 2880], 110 Stat. 26, approved January 26, 1996, enacted again as Public Law 104–107 [H.R. 1868], 110 Stat. 704, approved February 12, 1996; Public Law 105–118 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998; H.R. 2159], 111 Stat. 2386, approved November 26, 1997; and by Public Law 105–206 [Internal Revenue Service Restructuring and Reform Act of 1998; H.R. 2676], 112 Stat. 685, approved July 22, 1998

AN ACT To promote political democracy and economic pluralism in Poland and Hungary by assisting those nations during a critical period of transition and abetting the development in those nations of private business sectors, labor market reforms, and democratic institutions; to establish, through these steps, the framework for a composite program of support for East European Democracy (SEED).

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

SECTION 1.[1] SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Support for East European Democracy (SEED) Act of 1989".

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

	Page
Sec. 1. Short title and table of contents	120
Sec. 2. Support for East European Democracy (SEED) Program	121
Sec. 3. Scope of Authority	125
TITLE I—STRUCTURAL ADJUSTMENT	
Sec. 101. Multilateral support for structural adjustment in Poland and Hungary	125
Sec. 102. Stabilization assistance for Poland	126
Sec. 103. Agricultural assistance	127
Sec. 104. Debt-for-equity swaps and other special techniques	128
TITLE II—PRIVATE SECTOR DEVELOPMENT	
Sec. 201. Enterprise Funds for Poland and Hungary	129
Sec. 202. Labor market transition in Poland and Hungary	133
Sec. 203. Technical training for private sector development in Poland and Hungary	134
Sec. 204. Peace Corps programs in Poland and Hungary	135
Sec. 205. Use of Polish currency generated by agricultural assistance	135
Sec. 206. United States policy of private financial support for Polish and Hungarian credit unions	136

[1] 22 U.S.C. 5401 note.

[2] Sec. 202(e) of Public Law 102–549 (106 Stat. 3658) provided that any reference in any law to the Trade and Development Program shall be deemed to be a reference to the Trade and Development Agency.

TITLE III—TRADE AND INVESTMENT

Sec. 301. Eligibility of Poland for Generalized System of Preferences 136
Sec. 302. Overseas Private Investment Corporation programs for Poland and Hungary 137
Sec. 303. Export-Import Bank programs for Poland and Hungary 137
Sec. 304. Trade Credit Insurance Program for Poland 137
Sec. 305. Trade and Development Agency[2] activities for Poland and Hungary 138
Sec. 306. Bilateral investment treaties with Poland and Hungary 138
Sec. 307. Certain Polish bonds not subject to Internal Revenue Code rules relating to below-market loans 138

TITLE IV—EDUCATIONAL, CULTURAL, AND SCIENTIFIC ACTIVITIES

Sec. 401. Educational and cultural exchanges and sister institutions programs with Poland and Hungary 138
Sec. 402. Poland-Hungary scholarship partnership 139
Sec. 403. Science and technology exchange with Poland and Hungary 140

TITLE V—OTHER ASSISTANCE PROGRAMS

Sec. 501. Assistance in support of democratic institutions in Poland and Hungary 141
Sec. 502. Environmental initiatives for Poland and Hungary 141
Sec. 503. Medical supplies, hospital equipment, and medical training for Poland 143

TITLE VI—ADDITIONAL SEED PROGRAM ACTIONS

Sec. 601. Policy coordination of SEED Program 143
Sec. 602. SEED Information Center System 143
Sec. 603. Encouraging voluntary assistance for Poland and Hungary 144
Sec. 604. Economic and commercial officers at United States Embassies and missions in Poland and Hungary 144

TITLE VII—REPORTS TO CONGRESS

Sec. 701. Report on initial steps taken by United States and on Poland's requirement for agricultural assistance 145
Sec. 702. Report on confidence building measures by Poland and Hungary 145
Sec. 703. Report on environmental problems in Poland and Hungary 145
Sec. 704. Annual SEED Program report 146
Sec. 705. Reports on certain activities 147
Sec. 706. Notifications to Congress regarding assistance 147

TITLE VIII—MISCELLANEOUS PROVISIONS

Sec. 801. Suspension of SEED assistance 147
Sec. 802. Declaration of the Republic of Hungary 147
Sec. 803. Administrative expenses of the Agency for International Development 148
Sec. 804. Relation of provisions of this Act to certain provisions of appropriations Acts 148
Sec. 805. Certain uses of excess foreign currencies 148

SEC. 2.[3] SUPPORT FOR EAST EUROPEAN DEMOCRACY (SEED) PROGRAM.

(a) SEED PROGRAM.—The United States shall implement, beginning in fiscal year 1990, a concerted Program of Support for East

[3] 22 U.S.C. 5401. Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), provided the following:

"ASSISTANCE FOR EASTERN EUROPE AND THE BALTIC STATES

"(a) For necessary expenses to carry out the provisions of the Foreign Assistance Act of 1961 and the Support for East European Democracy (SEED) Act of 1989, $396,600,000, to remain available until September 30, 2006, which shall be available, notwithstanding any other provision of law, for assistance and for related programs for Eastern Europe and the Baltic States: *Provided,* That of the funds appropriated under this heading that are made available for assistance for Bulgaria, $2,000,000 should be made available to enhance safety at nuclear power plants.

Continued

European Democracy (which may also be referred to as the "SEED Program"). The SEED Program shall be comprised of diverse undertakings designed to provide cost-effective assistance to those countries of Eastern Europe that have taken substantive steps toward institutionalizing political democracy and economic pluralism.

(b) OBJECTIVES OF SEED ASSISTANCE.—The President should ensure that the assistance provided to East European countries pursuant to this Act is designed—

(1) to contribute to the development of democratic institutions and political pluralism characterized by—

(A) the establishment of fully democratic and representative political systems based on free and fair elections,

(B) effective recognition of fundamental liberties and individual freedoms, including freedom of speech, religion, and association,

(C) termination of all laws and regulations which impede the operation of a free press and the formation of political parties,

(D) creation of an independent judiciary, and

(E) establishment of non-partisan military, security, and police forces;

(2) to promote the development of a free market economic system characterized by—

(A) privatization of economic entities,

(B) establishment of full rights to acquire and hold private property, including land and the benefits of contractual relations,

(C) simplification of regulatory controls regarding the establishment and operation of businesses,

(D) dismantlement of all wage and price controls,

(E) removal of trade restrictions, including on both imports and exports,

(F) liberalization of investment and capital, including the repatriation of profits by foreign investors;

(G) tax policies which provide incentives for economic activity and investment,

(H) establishment of rights to own and operate private banks and other financial service firms, as well as unrestricted access to private sources of credit, and

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"(b) Funds appropriated under this heading shall be considered to be economic assistance under the Foreign Assistance Act of 1961 for purposes of making available the administrative authorities contained in that Act for the use of economic assistance.

"(c) The provisions of section 529 of this Act shall apply to funds appropriated under this heading: *Provided,* That notwithstanding any provision of this or any other Act, including provisions in this subsection regarding the application of section 529 of this Act, local currencies generated by, or converted from, funds appropriated by this Act and by previous appropriations Acts and made available for the economic revitalization program in Bosnia may be used in Eastern Europe and the Baltic States to carry out the provisions of the Foreign Assistance Act of 1961 and the Support for East European Democracy (SEED) Act of 1989.

"(d) The President is authorized to withhold funds appropriated under this heading made available for economic revitalization programs in Bosnia and Herzegovina, if he determines and certifies to the Committees on Appropriations that the Federation of Bosnia and Herzegovina has not complied with article III of annex 1–A of the General Framework Agreement for Peace in Bosnia and Herzegovina concerning the withdrawal of foreign forces, and that intelligence cooperation on training, investigations, and related activities between state sponsors of terrorism and terrorist organizations and Bosnian officials has not been terminated.".

(I) access to a market for stocks, bonds, and other instruments through which individuals may invest in the private sector; and

(3) not to contribute any substantial benefit—

(A) to Communist or other political parties or organizations which are not committed to respect for the democratic process, or

(B) to the defense or security forces of any member country of the Warsaw Pact.

(c) SEED ACTIONS.—Assistance and other activities under the SEED Program (which may be referred to as "SEED Actions") shall include activities such as the following:

(1) LEADERSHIP IN THE WORLD BANK AND INTERNATIONAL MONETARY FUND.—United States leadership in supporting—

(A) loans by the International Bank for Reconstruction and Development and its affiliated institutions in the World Bank group that are designed to modernize industry, agriculture, and infrastructure, and

(B) International Monetary Fund programs designed to stimulate sound economic growth.

(2) CURRENCY STABILIZATION LOANS.—United States leadership in supporting multilateral agreement to provide government-to-government loans for currency stabilization where such loans can reduce inflation and thereby foster conditions necessary for the effective implementation of economic reforms.

(3) DEBT REDUCTION AND RESCHEDULING.—Participation in multilateral activities aimed at reducing and rescheduling a country's international debt, when reduction and deferral of debt payments can assist the process of political and economic transition.

(4) AGRICULTURAL ASSISTANCE.—Assistance through the grant and concessional sale of food and other agricultural commodities and products when such assistance can ease critical shortages but not inhibit agricultural production and marketing in the recipient country.

(5) ENTERPRISE FUNDS.—Grants to support private, nonprofit "Enterprise Funds", designated by the President pursuant to law and governed by a Board of Directors, which undertake loans, grants, equity investments, feasibility studies, technical assistance, training, and other forms of assistance to private enterprise activities in the Eastern European country for which the Enterprise Fund so is designated.

(6) LABOR MARKET-ORIENTED TECHNICAL ASSISTANCE.—Technical assistance programs directed at promoting labor market reforms and facilitating economic adjustment.

(7) TECHNICAL TRAINING.—Programs to provide technical skills to assist in the development of a market economy.

(8) PEACE CORPS.—Establishment of Peace Corps programs.

(9) SUPPORT FOR INDIGENOUS CREDIT UNIONS.—Support for the establishment of indigenous credit unions.

(10) GENERALIZED SYSTEM OF PREFERENCES.—Eligibility for trade benefits under the Generalized System of Preferences.

(11)[4] NORMAL TRADE RELATIONS.—The granting of temporary or permanent nondiscriminatory treatment[5] to the products of an East European country through the application of the criteria and procedures established by section 402 of the Trade Act of 1974 (19 U.S.C. 2432; commonly referred to as the "Jackson-Vanik amendment").[6]

(12) OVERSEAS PRIVATE INVESTMENT CORPORATION.—Programs of the Overseas Private Investment Corporation.

(13) EXPORT-IMPORT BANK PROGRAMS.—Programs of the Export-Import Bank of the United States.

(14) TRADE AND DEVELOPMENT AGENCY[7] ACTIVITIES.—Trade and Development Agency[7] activities under the Foreign Assistance Act of 1961.

(15) INVESTMENT TREATIES.—Negotiation of bilateral investment treaties.

(16) SPECIAL TAX TREATMENT OF BELOW-MARKET LOANS.—Exempting bonds from Internal Revenue Code rules relating to below-market loans.

(17) EXCHANGE ACTIVITIES.—Expanded exchange activities under the Fulbright, International Visitors, and other programs conducted by the United States Information Agency.

(18) CULTURAL CENTERS.—Contributions toward the establishment of reciprocal cultural centers that can facilitate educational and cultural exchange and expanded understanding of Western social democracy.

(19) SISTER INSTITUTIONS.—Establishment of sister institution programs between American and East European schools and universities, towns and cities, and other organizations in such fields as medicine and health care, business management, environmental protection, and agriculture.

(20) SCHOLARSHIPS.—Scholarships to enable students to study in the United States.

(21) SCIENCE AND TECHNOLOGY EXCHANGES.—Grants for the implementation of bilateral agreements providing for cooperation in science and technology exchange.

(22) ASSISTANCE FOR DEMOCRATIC INSTITUTIONS.—Assistance designed to support the development of legal, legislative, electoral, journalistic, and other institutions of free, pluralist societies.

(23) ENVIRONMENTAL ASSISTANCE.—Environmental assistance directed at overcoming crucial deficiencies in air and water quality and other determinants of a healthful society.

(24) MEDICAL ASSISTANCE.—Medical assistance specifically targeted to overcome severe deficiencies in pharmaceuticals and other basic health supplies.

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[4] Sec. 5003(b)(6)(B) of Public Law 105–206 (112 Stat. 790) struck out "MOST FAVORED NATION TRADE STATUS" and inserted in lieu thereof "NORMAL TRADE RELATIONS".

[5] Sec. 5003(b)(6)(A) of Public Law 105–206 (112 Stat. 790) struck out "(commonly referred to as 'most favored nation status')" after "permanent nondiscriminatory treatment".

[6] See *Legislation on Foreign Relations Through 2004*, vol. III.

[7] Sec. 202(e) of Public Law 102–549 (106 Stat. 3658) provided that any reference in any law to the Trade and Development Program shall be deemed to be a reference to the Trade and Development Agency.

(25) ENCOURAGEMENT FOR PRIVATE INVESTMENT AND VOLUNTARY ASSISTANCE.—Encouraging private investment and voluntary private assistance, using a variety of means including a SEED Information Center System and the provision by the Department of Defense of transportation for private nonfinancial contributions.

SEC. 3.[8] SCOPE OF AUTHORITY.

(a) GENERAL AUTHORIZATION.—The President is authorized to conduct activities for any East European country that are similar to any activity authorized by this Act to be conducted in Poland or Hungary (excluding those authorized by section 102 or the amendments made by sections 301 and 304) if such similar activities would effectively promote a transition to market-oriented democracy.

(b) ADMINISTRATION OF JUSTICE PROGRAMS.—In order to strengthen the administration of justice in East European countries, the President may exercise the same authorities with respect to those countries as are available under section 534 of the Foreign Assistance Act of 1961, subject to the limitations and requirements of that section, other than subsection (c) and the last two sentences of subsection (e).

(c) DEFINITION OF EAST EUROPEAN COUNTRY.—For purposes of this Act, the term "East European country" includes Albania, Bulgaria, the Czech and Slovak Federal Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, and states that were part of the former Socialist Federal Republic of Yugoslavia.

TITLE I—STRUCTURAL ADJUSTMENT

SEC. 101.[9] MULTILATERAL SUPPORT FOR STRUCTURAL ADJUSTMENT IN POLAND AND HUNGARY.

(a) MULTILATERAL ASSISTANCE FOR POLAND AND HUNGARY.—

(1) IN GENERAL.—To the extent that Poland and Hungary continue to evolve toward pluralism and democracy and to develop and implement comprehensive economic reform programs, the United States Government shall take the leadership in mobilizing international financial institutions, in particular the International Monetary Fund and the International Bank for Reconstruction and Development and its affiliated institutions in the World Bank group, to provide timely and appropriate resources to help Poland and Hungary.

(2) WORLD BANK STRUCTURAL ADJUSTMENT LOAN FOR POLAND.—In furtherance of paragraph (1), the Secretary of the Treasury shall direct the United States Executive Director of the International Bank for Reconstruction and Development to urge expeditious approval and disbursement by the Bank of a structural adjustment loan to Poland in an appropriate amount in time to facilitate the implementation of major economic reforms scheduled for early 1990, including the termination of energy, export, and agricultural subsidies and wage indexation.

[8] 22 U.S.C. 5402. Sec. 903 of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3355) added sec. 3.
[9] 22 U.S.C. 5411.

(b) STABILIZATION ASSISTANCE, DEBT RELIEF, AND AGRICULTURAL ASSISTANCE FOR POLAND.—To the extent that Poland continues to evolve toward pluralism and democracy and to develop and implement comprehensive economic reform programs, the United States Government shall do the following:

(1) STABILIZATION ASSISTANCE.—The United States Government, in conjunction with other member governments of the Organization of Economic Cooperation and Development (OECD) and international financial institutions (including the International Monetary Fund), shall support the implementation of a plan of the Government of Poland to attack hyperinflation and other structural economic problems, address pressing social problems, carry out comprehensive economic reform, and relieve immediate and urgent balance of payments requirements in Poland, through the use of mechanisms such as—

(A) the Exchange Stabilization Fund pursuant to section 5302 of title 31, United States Code, and in accordance with established Department of the Treasury policies and procedures; and

(B) the authority provided in section 102(c) of this Act.

(2) DEBT RELIEF.—The United States Government—

(A) shall urge all members of the "Paris Club" of creditor governments and other creditor governments to adopt, and participate in, a generous and early rescheduling program for debts owed by the Government of Poland; and

(B) in coordination with other creditor governments, shall seek to expedite consultations between the Government of Poland and its major private creditors in order to facilitate a rescheduling and reduction of payments due on debt owed to such creditors in a manner consistent with the international debt policy announced by the Secretary of the Treasury on March 10, 1989.

(3) AGRICULTURAL ASSISTANCE.—The United States Government shall provide agricultural assistance for Poland in accordance with section 103.

SEC. 102.[10] STABILIZATION ASSISTANCE FOR POLAND.

(a) IMMEDIATE EMERGENCY ASSISTANCE.—To the extent that the ongoing International Monetary Fund review of the Polish economy projects a probable balance of payments shortage for the fourth quarter of 1989, the United States Government, in carrying out paragraph (1) of section 101(b)—

(1) should work closely with the European Community and international financial institutions to determine the extent of emergency assistance required by Poland for the fourth quarter of 1989, and

(2) should consider extending a bridge loan to relieve immediate and urgent balance of payments requirements using the Exchange Stabilization Fund in accordance with paragraph (1)(A) of section 101(b).

(b) IMMEDIATE, MULTILATERAL RESPONSE TO POLAND'S ECONOMIC STABILIZATION NEEDS.—In furtherance of section 101(b)(1), the

[10] 22 U.S.C. 5412.

President, acting in coordination with the European Community, should seek to ensure that the industrialized democracies undertake an immediate, multilateral effort to respond to Poland's request for $1,000,000,000 to support its economic stabilization program.

(c) ADDITIONAL AUTHORITY TO PROVIDE STABILIZATION ASSISTANCE.—

(1) AUTHORITY.—In order to carry out paragraph (1) of section 101(b), the President is authorized to furnish assistance for Poland, notwithstanding any other provision of law, to assist in the urgent stabilization of the Polish economy and ultimately to promote longer-term economic growth and stability, based on movement toward free market principles. Such assistance may be provided for balance of payments support (including commodity import programs), support for private sector development, or for other activities to further efforts to develop a free market-oriented economy in Poland.

(2) AUTHORIZATION OF APPROPRIATIONS.—For purposes of providing the assistance authorized by this subsection, there are authorized to be appropriated $200,000,000 for fiscal year 1990 to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund), in addition to amounts otherwise available for such purposes.

SEC. 103.[11] AGRICULTURAL ASSISTANCE.

(a) AGRICULTURAL ASSISTANCE STRATEGY.—

(1) UNITED STATES ASSISTANCE.—A principal component of the SEED Program shall be the provision by the United States of food and other agricultural commodities and products to alleviate crucial shortages that may be created in an East European country by the transition from state-directed controls to a free market economy.

(2) ASSISTANCE FROM OTHER COUNTRIES.—In order to ensure the necessary quantity and diversity of agricultural assistance for that purpose, the United States shall take all appropriate steps to encourage parallel efforts by the European Community and other agricultural surplus countries.

(3) AVOIDING DISINCENTIVES TO PRIVATE AGRICULTURAL PRODUCTION AND MARKETING.—In participating in such multilateral agricultural assistance, the United States shall seek to strike a balance wherein agricultural commodities and products are supplied in such quantities as will be effective in overcoming severe shortages and dampening inflation but without impeding the development of incentives for private agricultural production and marketing in the recipient country.

(b) AGRICULTURAL ASSISTANCE FOR POLAND.—Pursuant to section 101(b)(3), the United States Government—

(1) shall make available to Poland, in coordination with the European Community, United States agricultural assistance—

[11] 22 U.S.C. 5413.

(A) to alleviate immediate food shortages (such assistance to be specifically targeted toward elements of the Polish population most vulnerable to hunger and malnutrition, in particular the infirm, the elderly, and children), and

(B) to facilitate the transition from state-directed controls to a free market economy, while avoiding disincentives to domestic agricultural production and reform; and

(2) in order to ensure the necessary quantity and diversity of such agricultural assistance, shall take all appropriate steps to encourage parallel efforts by the European Community and other agricultural surplus countries.

(c) FY 1990 MINIMUM LEVEL OF AGRICULTURAL ASSISTANCE FOR POLAND.—In carrying out subsection (b) of this section, the level of assistance for Poland for fiscal year 1990 under section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)), the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 and following), and the Food for Progress Act of 1985 (7 U.S.C. 1736o) should not be less than $125,000,000. Such assistance—

(1) to the maximum extent practicable, shall be provided through nongovernmental organizations; and

(2) shall emphasize feed grains.

(d) CONSISTENCY WITH BUDGET REQUIREMENTS.—Subsection (c) should not be construed to authorize or require any budgetary obligations or outlays that are inconsistent with House Concurrent Resolution 106 of the 101st Congress (setting forth the congressional budget for the United States Government for fiscal year 1990).

SEC. 104.[12] DEBT-FOR-EQUITY SWAPS AND OTHER SPECIAL TECHNIQUES.

(a) REDUCTION OF DEBT BURDEN.—The President shall take all appropriate actions to explore and encourage innovative approaches to the reduction of the government-to-government and commercial debt burden of East European countries which have taken substantive steps toward political democracy and economic pluralism.

(b) AUTHORITY FOR DISCOUNTED SALES OF DEBT.—Notwithstanding any other provision of law, the President may undertake the discounted sale, to private purchasers, of United States Government debt obligations of an East European country which has taken substantive steps toward political democracy and economic pluralism, subject to subsection (c).

(c) CONDITION.—An obligation may be sold under subsection (b) only if the sale will facilitate so-called debt-for-equity or debt-for-development swaps wherein such newly privatized debt is exchanged by the new holder of the obligation for—

(1) local currencies, policy commitments, or other assets needed for development or other economic activities, or

(2) for an equity interest in an enterprise theretofore owned by the particular East European government.

[12] 22 U.S.C. 5414. Sec. 4 of Executive Order 12703, February 20, 1990 (55 F.R. 6351), delegated the functions conferred upon the President in this section relating to debt reduction of certain East European countries to the Secretary of the Treasury.

TITLE II—PRIVATE SECTOR DEVELOPMENT

SEC. 201.[13] ENTERPRISE FUNDS FOR POLAND AND HUNGARY.

(a) PURPOSES.—The purposes of this section are to promote—

(1) development of the Polish and Hungarian private sectors, including small businesses, the agricultural sector, and joint ventures with United States and host country participants, and

(2) policies and practices conducive to private sector development in Poland and Hungary,

through loans, grants, equity investments, feasibility studies, technical assistance, training, insurance, guarantees, and other measures.

(b) AUTHORIZATION OF APPROPRIATIONS.—To carry out the purposes specified in subsection (a), there are authorized to be appropriated to the President—

(1) $240,000,000 to support the Polish-American Enterprise Fund; and

(2) $60,000,000 to support the Hungarian-American Enterprise Fund.

Such amounts are authorized to be made available until expended.

(c) NONAPPLICABILITY OF OTHER LAWS.—The funds appropriated under subsection (b) may be made available to the Polish-American Enterprise Fund and the Hungarian-American Enterprise Fund and used for the purposes of this section notwithstanding any other provision of law.

(d) DESIGNATION OF ENTERPRISE FUNDS.—

(1) DESIGNATION.—The President is authorized to designate two private, nonprofit organizations as eligible to receive funds and support pursuant to this section upon determining that such organizations have been established for the purposes specified in subsection (a). For purposes of this Act, the organizations so designated shall be referred to as the Polish-American Enterprise Fund and the Hungarian-American Enterprise Fund (hereinafter in this section referred to as the "Enterprise Funds").

(2) CONSULTATION WITH CONGRESS.—The President shall consult with the leadership of each House of Congress before designating an organization pursuant to paragraph (1).

(3) BOARD OF DIRECTORS.—(A) Each Enterprise Fund shall be governed by a Board of Directors comprised of private citizens of the United States, and citizens of the respective host country, who have demonstrated experience and expertise in those areas of private sector development in which the Enterprise Fund is involved.

[13] 22 U.S.C. 5421. Sec. 2 of Executive Order No. 12703, February 20, 1990 (55 F.R. 6351), as amended, delegated the functions conferred upon the President in this section relating to Enterprise Funds for Poland and Hungary to the Secretary of State.

(B) A majority of the members of the Board of Directors of each Enterprise Fund shall be United States citizens:[14] *Provided,* That, as to Enterprise Funds established with respect to more than one host country, such Enterprise Fund may, in lieu of the appointment of citizens of the host countries to its Board of Directors, establish an advisory council for the host region comprised of citizens of each of the host countries or establish separate advisory councils for each of the host countries (hereinafter in this section referred to as the "Advisory Councils"), with which the Enterprise Fund's policies and proposed activities and such host country citizens shall satisfy the experience and expertise requirements of this clause.

(C) A host country citizen who is not committed to respect for democracy and a free market economy may not serve as a member of the Board of Directors of an Enterprise Fund.

(4) ELIGIBILITY OF ENTERPRISE FUNDS FOR GRANTS.—Grants may be made to an Enterprise Fund under this section only if the Enterprise Fund agrees to comply with the requirements specified in this section.

(5) PRIVATE CHARACTER OF ENTERPRISE FUNDS.—Nothing in this section shall be construed to make an Enterprise Fund an agency or establishment of the United States Government, or to make the officers, employees, or members of the Board of Directors of an Enterprise Fund officers or employees of the United States for purposes of title 5, United States Code.

(e) GRANTS TO ENTERPRISE FUNDS.—Funds appropriated to the President pursuant to subsection (b) shall be granted to the Enterprise Funds by the Agency for International Development to enable the Enterprise Funds to carry out the purposes specified in subsection (a) and for the administrative expenses of each Enterprise Fund.

(f) ELIGIBLE PROGRAMS AND PROJECTS.—

(1) IN GENERAL.—The Enterprise Funds may provide assistance pursuant to this section only for programs and projects which are consistent with the purposes set forth in subsection (a).

(2) EMPLOYEE STOCK OWNERSHIP PLANS.—Funds available to the Enterprise Funds may be used to encourage the establishment of Employee Stock Ownership Plans (ESOPs) in Poland and Hungary.

(3) INDIGENOUS CREDIT UNIONS.—Funds available to the Enterprise Funds may be used for technical and other assistance to support the development of indigenous credit unions in Poland and Hungary. As used in this paragraph, the term "credit union" means a member-owned, nonprofit, cooperative depository institution—

(A) which is formed to permit individuals in the field of membership specified in such institution's charter to pool their savings, lend the savings to one another, and own

[14] Title II—Bilateral Economic Assistance, Assistance for the New Independent States of the Former Soviet Union, of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (as enacted by reference in sec. 301 of Public Law 104–99; 110 Stat. 26; enacted again as Public Law 104–107; 110 Stat. 714), added the proviso.

the organization where they save, borrow, and obtain related financial services; and

(B) whose members are united by a common bond and democratically operate the institution.

(4) TELECOMMUNICATIONS MODERNIZATION IN POLAND.—The Polish-American Enterprise Fund may use up to $25,000,000 for grants for projects providing for the early introduction in Poland of modern telephone systems and telecommunications technology, which are crucial in establishing the conditions for successful transition to political democracy and economic pluralism.

(5) ECONOMIC FOUNDATION OF NSZZ SOLIDARNOŚĆ.—Funds available to the Polish-American Enterprise Fund may be used to support the Economic Foundation of NSZZ Solidarność.

(g) MATTERS TO BE CONSIDERED BY ENTERPRISE FUNDS.—In carrying out this section, each Enterprise Fund shall take into account such considerations as internationally recognized worker rights and other internationally recognized human rights, environmental factors, United States economic and employment effects, and the likelihood of commercial viability of the activity receiving assistance from the Enterprise Fund.

(h) RETENTION OF INTEREST.—An Enterprise Fund may hold funds granted to it pursuant to this section in interest-bearing accounts, prior to the disbursement of such funds for purposes specified in subsection (a), and may retain for such program purposes any interest earned on such deposits without returning such interest to the Treasury of the United States and without further appropriation by the Congress.

(i) USE OF UNITED STATES PRIVATE VENTURE CAPITAL.—In order to maximize the effectiveness of the activities of the Enterprise Funds, each Enterprise Fund may conduct public offerings or private placements for the purpose of soliciting and accepting United States venture capital which may be used, separately or together with funds made available pursuant to this section, for any lawful investment purpose that the Board of Directors of the Enterprise Fund may determine in carrying out this section. Financial returns on Enterprise Fund investments that include a component of private venture capital may be distributed, at such times and in such amounts as the Board of Directors of the Enterprise Fund may determine, to the investors of such capital.

(j) FINANCIAL INSTRUMENTS FOR INDIVIDUAL INVESTMENT IN POLAND.—In order to maximize the effectiveness of the activities of the Polish-American Enterprise Fund, that Enterprise Fund should undertake all possible efforts to establish financial instruments that will enable individuals to invest in the private sectors of Poland and that will thereby have the effect of multiplying the impact of United States grants to that Enterprise Fund.

(k) NONAPPLICABILITY OF OTHER LAWS.—Executive branch agencies may conduct programs and activities and provide services in support of the activities of the Enterprise Funds notwithstanding any other provision of law.

(l)[15] LIMITATION ON PAYMENTS TO ENTERPRISE FUND PERSONNEL.—

(1) No part of the funds of an Enterprise Fund shall inure to the benefit of any board member, officer, or employee of such Enterprise Fund, except as salary or reasonable compensation for services subject to paragraph (2).

(2) An Enterprise Fund shall not pay compensation for services to—

(A) any board member of the Enterprise Fund, except for services as a board member; or

(B) any firm, association, or entity in which a board member of the Enterprise Fund serves as partner, director, officer, or employee.

(3) Nothing in paragraph (2) shall preclude payment for services performed before the date of enactment of this subsection nor for arrangements approved by the grantor and notified in writing to the Committees on Appropriations.

(m) INDEPENDENT PRIVATE AUDITS.—The accounts of each Enterprise Fund shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The report of each such independent audit shall be included in the annual report required by this section.

(n) GAO AUDITS.—The financial transactions undertaken pursuant to this section by each Enterprise Fund may be audited by the General Accounting Office[16] in accordance with such principles and procedures and under such rules and regulations as may be prescribed by the Comptroller General of the United States, so long as the Enterprise Fund is in receipt of United States Government grants.

(o) RECORDKEEPING REQUIREMENTS.—The Enterprise Funds shall ensure—

(1) that each recipient of assistance provided through the Enterprise Funds under this section keeps—

(A) separate accounts with respect to such assistance;

(B) such records as may be reasonably necessary to disclose fully the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources; and

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[15] Sec. 588 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118; 111 Stat. 2438), amended and restated subsec. (l). It formerly read as follows:

"(l) LIMITATION ON PAYMENTS TO ENTERPRISE FUND PERSONNEL.—No part of the funds of either Enterprise Fund shall inure to the benefit of any board member, officer, or employee of such Enterprise Fund, except as salary or reasonable compensation for services.".

[16] Sec. 8 of the GAO Human Capital Reform Act of 2004 (Public Law 108–271; 118 Stat. 814) redesignated the "General Accounting Office" as the "Government Accountability Office" and provided that "Any reference to the General Accounting Office in any law, rule, regulations, certificate, directive, instruction, or other official paper in force on the date of enactment of this Act shall be considered to refer and apply to the Government Accountability Office.".

(C) such other records as will facilitate an effective audit; and

(2) that the Enterprise Funds, or any of their duly authorized representatives, have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance provided through the Enterprise Funds under this section.

(p) ANNUAL REPORTS.—Each Enterprise Fund shall publish an annual report, which shall include a comprehensive and detailed description of the Enterprise Fund's operations, activities, financial condition, and accomplishments under this section for the preceding fiscal year. This report shall be published not later than January 31 each year, beginning in 1991.

SEC. 202.[17] LABOR MARKET TRANSITION IN POLAND AND HUNGARY.

(a) TECHNICAL ASSISTANCE.—The Secretary of Labor (hereinafter in this section referred to as the "Secretary"), in consultation with representatives of labor and business in the United States, shall—

(1) provide technical assistance to Poland and Hungary for the implementation of labor market reforms; and

(2) provide technical assistance to Poland and Hungary to facilitate adjustment during the period of economic transition and reform.

(b) TYPES OF TECHNICAL ASSISTANCE AUTHORIZED.—In carrying out subsection (a), the Secretary is authorized to provide technical assistance regarding policies and programs for training and retraining, job search and employment services, unemployment insurance, occupational safety and health protection, labor-management relations, labor statistics, analysis of productivity constraints, entrepreneurial support for small businesses, market-driven systems of wage and income determinations, job creation, employment security, the observance of internationally recognized worker rights (including freedom of association and the right to organize and bargain collectively), and other matters that the Secretary may deem appropriate regarding free labor markets and labor organizations.

(c) ADMINISTRATIVE AUTHORITIES.—In carrying out subsection (a), the Secretary is authorized to do the following:

(1) Solicit and accept in the name of the Department of Labor, and employ or dispose of in furtherance of the purposes of this section, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise. Gifts and donations of property which are no longer required for the discharge of the purposes of this section shall be reported to the Administrator of General Services for transfer, donation, or other disposal in accordance with the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 and following).

(2) Solicit and accept voluntary and uncompensated services notwithstanding section 1342 of title 31, United States Code. A volunteer under this paragraph shall not be deemed to be an employee of the United States except for the purposes of—

(A) the tort claims provisions of title 28, United States Code, and

[17] 22 U.S.C. 5422.

(B) subchapter I of chapter 81 of title 5, United States Code, relating to compensation for work injuries.

(3) Enter into arrangements or agreements with appropriate departments, agencies, and establishments of Poland and Hungary.

(4) Enter into arrangements or agreements with appropriate private and public sector United States parties, and international organizations.

(d) CONSULTATION WITH APPROPRIATE OFFICERS.—In carrying out the responsibilities established by this section, the Secretary shall seek information and advice from, and consult with, appropriate officers of the United States.

(e) CONSULTATION WITH LABOR AND BUSINESS REPRESENTATIVES.—For purposes of this section, consultation between the Secretary and United States labor and business representatives shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

(f) DELEGATION OF RESPONSIBILITIES.—The Secretary shall delegate the authority to carry out the programs authorized by this section to the head of the Bureau of International Labor Affairs of the Department of Labor.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Labor for the 3-year period beginning October 1, 1989, to carry out this section—

(1) $4,000,000 for technical assistance to Poland; and

(2) $1,000,000 for technical assistance to Hungary.

SEC. 203.[18] TECHNICAL TRAINING FOR PRIVATE SECTOR DEVELOPMENT IN POLAND AND HUNGARY.

(a) TECHNICAL TRAINING PROGRAM.—The Agency for International Development shall develop and implement a program for extending basic agribusiness, commercial, entrepreneurial, financial, scientific, and technical skills to the people of Poland and Hungary to enable them to better meet their needs and develop a market economy. This program shall include management training and agricultural extension activities.

(b) PARTICIPATION BY ENTERPRISE FUNDS AND OTHER AGENCIES AND ORGANIZATIONS.—In carrying out subsection (a), the Agency for International Development may utilize the Polish-American Enterprise Fund and the Hungarian-American Enterprise Fund and other appropriate Government and private agencies, programs, and organizations such as—

(1) the Department of Agriculture;

(2) the Farmer-to-Farmer Program under section 406(a) (1) and (2) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736(a) (1) and (2));

(3) the International Executive Service Corps;

(4) the Foundation for the Development of Polish Agriculture;

(5) the World Council of Credit Unions; and

(6) other United States, Polish, and Hungarian private and voluntary organizations and private sector entities.

[18] 22 U.S.C. 5423.

(c) NONAPPLICABILITY OF OTHER PROVISIONS OF LAW.—Assistance provided pursuant to subsection (a) under the authorities of part I of the Foreign Assistance Act of 1961 may be provided notwithstanding any other provision of law.

(d) AUTHORIZATION OF APPROPRIATIONS.—For purposes of implementing this section, there are authorized to be appropriated $10,000,000 for the 3-year period beginning October 1, 1989, to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following; relating to development assistance), in addition to amounts otherwise available for such purposes.

(e) LIMITATION WITH RESPECT TO FARMER-TO-FARMER PROGRAM.—Any activities carried out pursuant to this Act through the Farmer-to-Farmer Program under section 406(a) (1) and (2) of the Agricultural Trade Development and Assistance Act of 1954 shall be funded with funds authorized to be appropriated by this Act and local currencies made available under section 205, and shall not be funded with funds made available pursuant to section 1107 of the Food Security Act of 1985 (7 U.S.C. 1736 note) or a similar, subsequent provision of law.

SEC. 204.[19] PEACE CORPS PROGRAMS IN POLAND AND HUNGARY.

There are authorized to be appropriated to carry out programs in Poland and Hungary under the Peace Corps Act, $6,000,000 for the 3-year period beginning October 1, 1989, in addition to amounts otherwise available for such purposes. Such programs shall include the use of Peace Corps volunteers—

(1) to provide English language training, and

(2) to extend the technical skills described in section 203(a) to the people of Poland and Hungary, using the Associate Volunteer Program to the extent practicable.

SEC. 205.[20] USE OF POLISH CURRENCY GENERATED BY AGRICULTURAL ASSISTANCE.

(a) ADDITIONAL ASSISTANCE FOR POLAND.—A portion of the agricultural commodities described in subsection (c) may be made available and sold or bartered in Poland to generate local currencies to be used—

(1) to complement the assistance for Poland authorized by sections 103(b), 201, and 203 of this Act, and

(2) to support the activities of the joint commission established pursuant to section 2226 of the American Aid to Poland Act of 1988 (7 U.S.C. 1431 note),

notwithstanding section 416(b)(7) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)(7)) or any other provision of law.

(b) EMPHASIS ON AGRICULTURAL DEVELOPMENT.—The uses of local currencies generated under this section should emphasize the development of agricultural infrastructure, agriculture-related training, and other aspects of agricultural development in Poland.

(c) COMMODITIES SUBJECT TO REQUIREMENTS.—Subsection (a) applies with respect to agricultural commodities made available for Poland for fiscal years 1990, 1991, and 1992 under section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)), the Agricultural

[19] 22 U.S.C. 5424.
[20] 22 U.S.C. 5425.

Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 and following), and the Food for Progress Act of 1985 (7 U.S.C. 1736o).

(d) OTHER USES NOT PRECLUDED.—The uses of agricultural commodities and local currencies specified in subsection (a) are in addition to other uses authorized by law.

SEC. 206.[21] UNITED STATES POLICY OF PRIVATE FINANCIAL SUPPORT FOR POLISH AND HUNGARIAN CREDIT UNIONS.

(a) IN GENERAL.—In order to facilitate the development of indigenous credit unions in Poland and Hungary, it is the policy of the United States that—

(1) United States citizens, financial institutions (other than federally insured depository institutions), and other persons may make contributions and loans to, make capital deposits in, and provide other forms of financial and technical assistance to credit unions in Poland and Hungary; and

(2) federally insured depository institutions may provide technical assistance to credit unions in Poland and Hungary, to the extent that the provision of such assistance is prudent and not inconsistent with safe and sound banking practice.

(b) AMENDMENT TO FEDERAL CREDIT UNION ACT.—Section 107 of the Federal Credit Union Act (12 U.S.C. 1757) is amended by redesignating paragraph (16) as paragraph (17) and by inserting after paragraph (15) the following new paragraph:

"(16) subject to such regulations as the Board may prescribe, to provide technical assistance to credit unions in Poland and Hungary; and".

(c) DEFINITIONS.—For purposes of subsection (a)—

(1) the term "credit union" means a member-owned, nonprofit, cooperative depository institution—

(A) which is formed to permit individuals in the field of membership specified in such institution's charter to pool their savings, lend the savings to one another, and own the organization where they save, borrow, and obtain related financial services; and

(B) whose members are united by a common bond and democratically operate the institution; and

(2) the term "federally insured depository institution" means—

(A) any insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act); and

(B) any insured credit union (as defined in section 101(7) of the Federal Credit Union Act).

TITLE III—TRADE AND INVESTMENT

SEC. 301. ELIGIBILITY OF POLAND FOR GENERALIZED SYSTEM OF PREFERENCES.

Subsection (b) of section 502 of the Trade Act of 1974 (19 U.S.C. 2462(b))[22] is amended by striking out "Poland" in the table within such subsection.

[21] 22 U.S.C. 5426.

[22] Sec. 502(b) of the Trade Act of 1974 (Public Law 93–618) lists those countries excluded from designation of "Beneficiary Developing Country" under the Generalized System of Preferences. Hungary was removed from this list by Public Law 98–573, effective January 4, 1985.

SEC. 302. OVERSEAS PRIVATE INVESTMENT CORPORATION PROGRAMS FOR POLAND AND HUNGARY.

(a) ELIGIBILITY OF POLAND AND HUNGARY FOR OPIC PROGRAMS.—Section 239(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2199(f)) is amended by inserting ", Poland, Hungary," after "Yugoslavia".[23]

(b)[24] ENHANCEMENT OF NONGOVERNMENTAL SECTOR.—In accordance with its mandate to foster private initiative and competition and enhance the ability of private enterprise to make its full contribution to the development process, the Overseas Private Investment Corporation shall support projects in Poland and Hungary which will result in enhancement of the nongovernmental sector and reduction of state involvement in the economy.

(c)[24] AVOIDANCE OF DUPLICATIVE AMENDMENTS.—If the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, contains the same amendment that is made by subsection (a) of this section, the amendment made by that Act shall not be effective.[25]

SEC. 303.[26] EXPORT-IMPORT BANK PROGRAMS FOR POLAND AND HUNGARY.

(a) AUTHORITY TO EXTEND CREDIT TO POLAND AND HUNGARY.—Notwithstanding section 2(b)(2) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(2)), the Export-Import Bank of the United States may guarantee, insure, finance, extend credit, and participate in the extension of credit in connection with the purchase or lease of any product by the Republic of Hungary or any agency or national thereof or by the Polish People's Republic or any agency or national thereof.

(b) PRIVATE FINANCIAL INTERMEDIARIES TO FACILITATE EXPORTS TO POLAND.—Consistent with the provisions of the Export-Import Bank Act of 1945 (12 U.S.C. 635 and following), the Export-Import Bank of the United States shall work with private financial intermediaries in Poland to facilitate the export of goods and services to Poland.

SEC. 304. TRADE CREDIT INSURANCE PROGRAM FOR POLAND.

(a) * * *[27]

(b) CONFORMING AMENDMENT.—Section 224 of that Act is amended by inserting "FOR CENTRAL AMERICA" after "PROGRAM" in the section caption.

(c) CONFORMING REFERENCE.—With respect to Poland, any reference in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, to section 224 of the Foreign Assistance Act of 1961 shall be deemed to be a reference to section 225 of that Act (as enacted by this section).

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[23] Sec. 239 of the Foreign Assistance Act of 1961 states the general provisions and powers of the Overseas Private Investment Corporation. Subsec. (f) requires the President to determine that OPIC programs in certain countries are in the national interest.

[24] 22 U.S.C. 2199 note.

[25] Sec. 597 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167; 103 Stat. 1257), stated the same amendment.

[26] 12 U.S.C. 635 note.

[27] Sec. 304(a) amended the Foreign Assistance Act of 1961 by inserting a new sec. 225.

SEC. 305.[28] TRADE AND DEVELOPMENT AGENCY[29] ACTIVITIES FOR POLAND AND HUNGARY.

In order to permit expansion of the Trade and Development Agency[29] into Poland and Hungary, there are authorized to be appropriated $6,000,000 for the 3-year period beginning October 1, 1989, to carry out section 661 of the Foreign Assistance Act of 1961 (22 U.S.C. 2241), in addition to amounts otherwise available for such purpose.

SEC. 306. BILATERAL INVESTMENT TREATIES WITH POLAND AND HUNGARY.

The Congress urges the President to seek bilateral investment treaties with Poland and Hungary in order to establish a more stable legal framework for United States investment in those countries.

SEC. 307. CERTAIN POLISH BONDS NOT SUBJECT TO INTERNAL REVENUE CODE RULES RELATING TO BELOW-MARKET LOANS.

(a) IN GENERAL.—Paragraph (5) of section 1812(b) of the Tax Reform Act of 1986 is amended—

(1) by inserting "or Poland" after "Israel" in the text thereof, and

(2) by inserting "OR POLISH" after "ISRAEL" in the heading thereof.[30]

(b)[31] EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

TITLE IV—EDUCATIONAL, CULTURAL, AND SCIENTIFIC ACTIVITIES

SEC. 401.[32] EDUCATIONAL AND CULTURAL EXCHANGES AND SISTER INSTITUTIONS PROGRAMS WITH POLAND AND HUNGARY.

(a) EDUCATIONAL AND CULTURAL EXCHANGES.—

(1) SUPPORT FOR EXPANDED U.S. PARTICIPATION.—The United States should expand its participation in educational and cultural exchange activities with Poland and Hungary, using the full array of existing government-funded and privately-funded programs, with particular emphasis on the J. William Fulbright Educational Exchange Program, the International Visitors Program, the Samantha Smith Memorial Exchange Program, the exchange programs of the National Academy of Sciences, youth and student exchanges through such private organizations as The Experiment in International Living, The American Field Service Committee, and Youth for Understanding, and research exchanges sponsored by the International Research and Exchanges Board (IREX).

(2) EMPHASIS ON SKILLS IN BUSINESS AND ECONOMICS.—The United States should place particular emphasis on expanding

[28] 22 U.S.C. 2421 note.

[29] Sec. 202(e) of Public Law 102–549 (106 Stat. 3658) provided that any reference in any law to the Trade and Development Program shall be deemed to be a reference to the Trade and Development Agency.

[30] Sec. 1812(b)(5) of the Tax Reform Act of 1986 (Public Law 99–514) may be found at 100 Stat. 2834; 26 U.S.C. 7872 note.

[31] 26 U.S.C. 7872 note.

[32] 22 U.S.C. 5441.

its participation in educational exchange activities that will assist in developing the skills in business and economics that are necessary for the development of a free market economy in Poland and Hungary.

(b) BINATIONAL FULBRIGHT COMMISSIONS.—The United States should take all appropriate action to establish binational Fulbright commissions with Poland and Hungary in order to facilitate and enhance academic and scholarly exchanges with those countries.

(c) RECIPROCAL CULTURAL CENTERS.—The President should consider the establishment of reciprocal cultural centers in Poland and the United States and in Hungary and the United States to facilitate government-funded and privately-funded cultural exchanges.

(d) SISTER INSTITUTIONS PROGRAMS.—The President shall act to encourage the establishment of "sister institution" programs between American and Polish organizations and between American and Hungarian organizations, including such organizations as institutions of higher education, cities and towns, and organizations in such fields as medicine and health care, business management, environmental protection, and agricultural research and marketing.

(e) AUTHORIZATION OF APPROPRIATIONS.—To enable the United States Information Agency to support the activities described in this section, there are authorized to be appropriated $12,000,000 for the 3-year period beginning October 1, 1989, in addition to amounts otherwise available for such purposes.

SEC. 402.[33] POLAND-HUNGARY SCHOLARSHIP PARTNERSHIP.

(a) ESTABLISHMENT OF SCHOLARSHIP PROGRAM.—The Administrator of the Agency for International Development is authorized to establish and administer a program of scholarship assistance, in cooperation with State governments, universities, community colleges, and businesses, to provide scholarships to enable students from Poland and Hungary to study in the United States.

(b) EMPHASIS ON BUSINESS AND ECONOMICS.—The scholarship program provided for in this section shall emphasize scholarships to enable students from Poland and Hungary to study business and economics in the United States. Such scholarships may be provided for study in programs that range from the standard management courses to more specialized assistance in commercial banking and the creation of a stock market.

(c) GRANTS TO STATES.—In carrying out this section, the Administrator may make grants to States to provide scholarship assistance for undergraduate or graduate degree programs, and training programs of one year or longer, in study areas related to the critical development needs of Poland and Hungary.

(d) CONSULTATION WITH STATES.—The Administrator shall consult with the participating States with regard to the educational opportunities available within each State and on the assignment of scholarship recipients.

(e) FEDERAL SHARE.—The Federal share for each year for which a State receives payments under this section shall not be more than 50 percent.

(f) NON-FEDERAL SHARE.—The non-Federal share of payments under this section may be in cash, including the waiver of tuition

[33] 22 U.S.C. 5442.

or the offering of in-State tuition or housing waivers or subsidies, or in-kind fairly evaluated, including the provision of books or supplies.

(g) FORGIVENESS OF SCHOLARSHIP ASSISTANCE.—The obligation of any recipient to reimburse any entity for any or all scholarship assistance provided under this section shall be forgiven upon the recipient's prompt return to Poland or Hungary, as the case may be, for a period which is at least one year longer than the period spent studying in the United States with scholarship assistance.

(h) PRIVATE SECTOR PARTICIPATION.—To the maximum extent practicable, each participating State shall enlist the assistance of the private sector to enable the State to meet the non-Federal share of payments under this section. Wherever appropriate, each participating State shall encourage the private sector to offer internships or other opportunities consistent with the purposes of this section to students receiving scholarships under this section.

(i) FUNDING.—Grants to States pursuant to this section shall be made with funds made available to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following; relating to development assistance) or chapter 4 of part II of that Act (22 U.S.C. 2346 and following; relating to the economic support fund). In addition to amounts otherwise available for such purpose under those chapters, there are authorized to be appropriated $10,000,000 for the 3-year period beginning October 1, 1989, for use in carrying out this section.

(j) RESTRICTIONS NOT APPLICABLE.—Prohibitions on the use of foreign assistance funds for assistance for Poland and Hungary shall not apply with respect to the funds made available to carry out this section.

(k) DEFINITION OF STATE.—As used in this section, the term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

SEC. 403.[34] SCIENCE AND TECHNOLOGY EXCHANGE WITH POLAND AND HUNGARY.

(a) AGREEMENT WITH POLAND.—There are authorized to be appropriated to the Secretary of State for purposes of continuing to implement the 1987 United States-Polish science and technology agreement—

(1) $1,500,000 for fiscal year 1990,
(2) $2,000,000 for fiscal year 1991, and
(3) $2,000,000 for fiscal year 1992.

(b) AGREEMENT WITH HUNGARY.—There are authorized to be appropriated to the Secretary of State for purposes of implementing the 1989 United States-Hungarian science and technology agreement—

(1) $500,000 for fiscal year 1990,
(2) $1,000,000 for fiscal year 1991, and
(3) $1,000,000 for fiscal year 1992.

(c) DEFINITION OF AGREEMENTS BEING FUNDED.—For purposes of this section—

[34] 22 U.S.C. 5443.

(1) the term "1987 United States-Polish science and technology agreement" refers to the agreement concluded in 1987 by the United States and Poland, entitled "Agreement Between the Government of the United States of America and the Polish People's Republic on Cooperation in Science and Technology and Its Funding", together with annexes relating thereto; and

(2) the term "1989 United States-Hungarian science and technology agreement" refers to the agreement concluded in 1989 by the United States and Hungary, entitled "Agreement Between the Government of the United States of America and the Government of the Hungarian People's Republic for Scientific and Technology Cooperation", together with annexes relating thereto.

TITLE V—OTHER ASSISTANCE PROGRAMS

SEC. 501.[35] ASSISTANCE IN SUPPORT OF DEMOCRATIC INSTITUTIONS IN POLAND AND HUNGARY.

(a) AUTHORIZATION OF ASSISTANCE.—In addition to amounts otherwise available for such purposes, there are authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund) $12,000,000 for the 3-year period beginning October 1, 1989, which shall be available only for the support of democratic institutions and activities in Poland and Hungary.

(b) NONAPPLICABILITY OF OTHER LAWS.—Assistance may be provided under this section notwithstanding any other provision of law.

SEC. 502.[36] ENVIRONMENTAL INITIATIVES FOR POLAND AND HUNGARY.

(a) PRIORITY FOR THE CONTROL OF POLLUTION.—The Congress recognizes the severe pollution problems affecting Poland and Hungary and the serious health problems which ensue from such pollution. The Congress therefore directs that a high priority be given in the implementation of assistance to Poland and Hungary to the control of pollution and the restoration of the natural resource base on which a sustainable, healthy economy depends.

(b) EPA ACTIVITIES GENERALLY.—In addition to specific authorities contained in any of the environmental statutes administered by the Environmental Protection Agency, the Administrator of that Agency (hereinafter in this section referred to as the "Administrator") is authorized to undertake such educational, policy training, research, and technical and financial assistance, monitoring, coordinating, and other activities as the Administrator may deem appropriate, either alone or in cooperation with other United States or foreign agencies, governments, or public or private institutions, in protecting the environment in Poland and Hungary.

(c) EPA ACTIVITIES IN POLAND.—The Administrator shall cooperate with Polish officials and experts to—

[35] 22 U.S.C. 5451.
[36] 22 U.S.C. 5452.

(1) establish an air quality monitoring network in the Krakow metropolitan area as a part of Poland's national air monitoring network; and

(2) improve both water quality and the availability of drinking water in the Krakow metropolitan area.

(d) EPA ACTIVITIES IN HUNGARY.—The Administrator shall work with other United States and Hungarian officials and private parties to establish and support a regional center in Budapest for facilitating cooperative environmental activities between governmental experts and public and private organizations from the United States and Eastern and Western Europe.

(e) FUNDING OF EPA ACTIVITIES.—To enable the Environmental Protection Agency to carry out subsections (b), (c), and (d), there are authorized to be appropriated $10,000,000 for the 3-year period beginning October 1, 1989, to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following; relating to development assistance) or chapter 4 of Part II of that Act (22 U.S.C. 2346 and following; relating to the economic support fund). These funds may be used to carry out those subsections notwithstanding any provision of law relating to the use of foreign assistance funds.

(f) DEPARTMENT OF ENERGY ACTIVITIES RELATING TO FOSSIL FUELS.—

(1) CLEAN COAL.—The Secretary of Energy shall cooperate with Polish officials and experts to retrofit a coal-fired commercial powerplant in the Krakow, Poland, region with advanced clean coal technology that has been successfully demonstrated at a comparably scaled powerplant in the United States. Such retrofit shall be carried out by one or more United States companies using United States technology and equipment manufactured in the United States. The Secretary may vest title in any property acquired under this paragraph in an entity other than the United States.

(2) EQUIPMENT ASSESSMENT.—The Secretary of Energy shall cooperate with Polish officials and experts and companies within the United States to assess and develop the capability within Poland to manufacture or modify boilers, furnaces, smelters, or other equipment that will enable industrial facilities within Poland to use fossil fuels cleanly. The Secretary may vest title in any property acquired under this paragraph in an entity other than the United States.

(3) AUTHORIZATION OF APPROPRIATIONS.—To carry out paragraphs (1) and (2) of this subsection, there are authorized to be appropriated $30,000,000 for the 3-year period beginning October 1, 1989. Not more than $10,000,000 of the funds appropriated under this paragraph may be used to carry out the requirements of paragraph (1).

(g) PRIORITY FOR EFFICIENT ENERGY USE.—In view of the high energy usage per unit of output in Hungary and Poland, the Secretary of Energy shall give high priority to assisting officials of Poland and Hungary in improving the efficiency of their energy use, through emphasis on such measures as efficient motors, lights, gears, and appliances and improvements in building insulation and design.

(h) ALTERNATIVE INVESTMENTS IN ENERGY IN HUNGARY.—It is the sense of the Congress that the Executive branch should work with the Government of Hungary to achieve environmentally safe alternative investments in energy efficiency, particularly with regard to projects along the Danube River.

SEC. 503.[37] MEDICAL SUPPLIES, HOSPITAL EQUIPMENT, AND MEDICAL TRAINING FOR POLAND.

(a) AUTHORIZATION OF ASSISTANCE.—In addition to amounts otherwise available for such purposes, there are authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund) $4,000,000 for the 3-year period beginning October 1, 1989, which shall be available only—

(1) for providing medical supplies and hospital equipment to Poland through private and voluntary organizations, including for the expenses of purchasing, transporting, and distributing such supplies and equipment, and

(2) for training of Polish medical personnel.

(b) NONAPPLICABILITY OF OTHER LAWS.—Assistance may be provided under this section notwithstanding any other provision of law, other than—

(1) section 104(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(f); relating to the prohibition on the use of funds for abortions and involuntary sterilizations), and

(2) any provision of the annual Foreign Operations, Export Financing, and Related Programs Appropriations Act that relates to abortion.

TITLE VI—ADDITIONAL SEED PROGRAM ACTIONS

SEC. 601.[38] POLICY COORDINATION OF SEED PROGRAM.

The President shall designate, within the Department of State, a SEED Program coordinator who shall be directly responsible for overseeing and coordinating all programs described in this Act and all other activities that the United States Government conducts in furtherance of the purposes of this Act.

SEC. 602.[39] SEED INFORMATION CENTER SYSTEM.

(a) ESTABLISHMENT.—The President shall establish a SEED Information Center System, using existing Executive branch agencies and acting in cooperation with the Government of Poland and the Government of Hungary.

(b) FUNCTIONS.—

(1) IN GENERAL.—The SEED Information Center System shall serve as a central clearinghouse mechanism for information relating to—

(A) business needs and opportunities in Eastern Europe, and

(B) voluntary assistance to countries in Eastern Europe.

[37] 22 U.S.C. 5453.

[38] 22 U.S.C. 5461.

[39] 22 U.S.C. 5462. Sec. 3 of Executive Order 12703, February 20, 1990 (55 F.R. 6351), delegated the functions conferred upon the President in this section relating to the establishment of a SEED information Center System in cooperation with the Governments of Poland and Hungary to the Secretary of Commerce, in consultation with the SEED Program Coordinator and other agencies.

(2) PRIVATE ENTERPRISE DEVELOPMENT.—The SEED Information Center System shall be organized, among other purposes, to encourage—

(A) the submission of economically sound proposals to the Polish-American Enterprise Fund and Hungarian-American Enterprise Fund, and

(B) other sources of finance for the development of private enterprise in Eastern Europe.

(c) LOCATION.—The SEED Information Center System shall be based jointly in Washington, District of Columbia; Warsaw, Poland; and Budapest, Hungary; and should it become appropriate, the capitals of other East European countries.

SEC. 603.[40] ENCOURAGING VOLUNTARY ASSISTANCE FOR POLAND AND HUNGARY.

(a) ENCOURAGING PRIVATE CONTRIBUTIONS.—It is the sense of the Congress that the President should take all possible steps to encourage across the Nation a massive outpouring of private contributions of money and nonperishable foods, to be collected by civic, religious, school, and youth organizations, for assistance to Poland and to refugees from Romania who are in Hungary.

(b) TRANSPORTATION TO POLAND OF PRIVATE CONTRIBUTIONS.—In further of subsection (a), the President—

(1) using all available authorities, including section 402 of title 10, United States Code (relating to transportation of humanitarian relief supplies), should use resources of the Department of Defense (including the National Guard) to transport nonfinancial private contributions to Poland,

(2) should request additional authorities as needed for the use of those resources for that purpose; and

(3) should encourage maximum participation by such recognized private and voluntary organizations as the Polish-American Congress in the transportation of nonfinancial private contributions to Poland.

SEC. 604.[41] ECONOMIC AND COMMERCIAL OFFICERS AT UNITED STATES EMBASSIES AND MISSIONS IN POLAND AND HUNGARY.

It is the sense of the Congress that, to the extent practicable—

(1) the United States Embassy in Budapest, Hungary, should be assigned one additional economic and commercial officer;

(2) the United States Embassy in Warsaw, Poland, should be assigned one additional economic officer and one additional commercial officer;

(3) the United States Trade Center in Warsaw, Poland, should be assigned one additional economic and commercial officer; and

(4) the United States mission in Krakow, Poland, should be assigned one additional economic and commercial officer.

[40] 22 U.S.C. 5463.
[41] 22 U.S.C. 5464.

TITLE VII—REPORTS TO CONGRESS[42]

SEC. 701.[43] REPORT ON INITIAL STEPS TAKEN BY UNITED STATES AND ON POLAND'S REQUIREMENT FOR AGRICULTURAL ASSISTANCE.

(a) INITIAL REPORT.—Not later than 60 days after the date of enactment of this Act, the President shall submit a report to the Congress—

(1) describing the steps taken by the United States Government pursuant to title I, in particular sections 102 (a) and (b);

(2) assessing Poland's requirements for additional agricultural assistance during fiscal year 1990 and its requirements for agricultural assistance during fiscal years 1991 and 1992; and

(3) specifying how much agricultural assistance the President proposes be provided by the United States to meet those requirements.

(b) UPDATING ASSESSMENTS.—As additional information becomes available, the President shall provide to the Congress revised assessments of Poland's requirements for agricultural assistance during fiscal years 1991 and 1992, specifying how much agricultural assistance the President proposes be provided by the United States to meet those requirements.

SEC. 702.[44] REPORT ON CONFIDENCE BUILDING MEASURES BY POLAND AND HUNGARY.

Not later than 180 days after the date of enactment of this Act, the President shall submit a report to the Congress identifying—

(1) the confidence building measures Poland and Hungary could undertake to facilitate the negotiation of agreements, including bilateral customs and technology transfer agreements, that would encourage greater direct private sector investment in that country; and

(2) the confidence building measures Poland and Hungary could undertake with respect to the treatment accorded those countries under the Export Administration Act of 1979.

SEC. 703.[45] REPORT ON ENVIRONMENTAL PROBLEMS IN POLAND AND HUNGARY.

The first report submitted pursuant to section 704 shall include the following:

(1) ASSESSMENT OF PROBLEMS.—An overall assessment of the environmental problems facing Poland and Hungary, including—

(A) a relative ranking of the severity of the problems and their effects on both human health and the general environment;

(B) a listing of the geographical areas of each country that have suffered the heaviest environmental damage, and a description of the source and scope of the damage; and

[42] Sec. 1 of Executive Order 12703, February 20, 1990 (55 F.R. 6351), delegated the functions conferred upon the President in this title relating to reports to the Congress to the Coordinator of the SEED Program.

[43] 22 U.S.C. 5471.

[44] 22 U.S.C. 5472.

[45] 22 U.S.C. 5473.

(C) an assessment of the environmental performance of leading industrial polluters in those countries and the expected effect on pollution levels of industrial modernization.

(2) PRIORITIES AND COSTS FOR ACTION.—An analysis of the priorities that Poland and Hungary should each assign in addressing its environmental problems, and an estimate of the capital and human resources required to undertake a comprehensive program of environmental protection in that country.

(3) ROLE OF UNITED STATES AND MULTILATERAL ASSISTANCE.—A statement of strategy for United States assistance for the next 5 years to address environmental problems in Poland and Hungary, including—

(A) recommendations for appropriate levels and forms of bilateral financial and technical assistance;

(B) recommendations concerning United States participation in cooperative multilateral undertakings;

(C) an assessment of the feasibility of debt-for-nature swaps as a technique of environmental protection in each country; and

(D) recommendations for minimizing further environmental damage to Krakow, and for the protection and restoration of historic sites in that city.

SEC. 704.[46] ANNUAL SEED PROGRAM REPORT.

(a) FINDINGS.—The Congress finds that—

(1) in order to provide the President with maximum flexibility and opportunity for innovation in implementation of the SEED Program, this Act sets forth general goals and modalities for the support of democracy and economic pluralism in Eastern Europe;

(2) prompt United States action in devising specific measures to achieve the goals outlined in this Act will be crucial in generating the public awareness, and the international commitment, necessary for United States leadership of a successful multilateral program of assistance in Eastern Europe; and

(3) clear-cut delineation of such United States actions at an early date is integral to United States leadership of this effort.

(b) INITIAL SEED PROGRAM REPORT.—Accordingly, the first report pursuant to subsection (c) shall be a comprehensive report that includes a full description of all SEED Actions taken pursuant to each provision of this Act since the enactment of this Act.

(c) ANNUAL SEED PROGRAM REPORT.—Not later than January 31 of each year (beginning in 1991), the President shall submit to the Congress a "Report on the United States Program of Support for East European Democracy (the SEED Program)". Each such report shall describe the assistance provided to each East European country under this Act during the preceding fiscal year. In addition, each such report shall contain an assessment of the progress made by each such recipient country in—

[46] 22 U.S.C. 5474.

(1) implementing economic policies designed to promote sustained economic growth, develop economic freedom, and increase opportunities for the people of that country; and

(2) adopting and implementing constitutional, legal, and administrative measures that—

(A) affect the powers of the executive and legislative authorities and the independence of the judiciary,

(B) affect the formation and operation of independent political parties, groups, associations, or organizations, or

(C) affect fundamental human rights and civil liberties.

SEC. 705.[47] REPORTS ON CERTAIN ACTIVITIES.

At the same time each report is submitted pursuant to section 704(c), the President shall submit to the appropriate committees of the Congress a report on the extent of espionage activities against the United States and other member countries of the North Atlantic Treaty Organization by operatives of the government of any East European country that is receiving assistance under this Act. Such reports may be submitted in classified form.

SEC. 706.[48] NOTIFICATIONS TO CONGRESS REGARDING ASSISTANCE.

Section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1; relating to reprogramming notifications) applies with respect to obligations of funds made available under that Act to carry out this Act, notwithstanding any other provision of this Act.

TITLE VIII—MISCELLANEOUS PROVISIONS

SEC. 801.[49] SUSPENSION OF SEED ASSISTANCE.

The President should suspend all assistance to an East European country pursuant to this Act if the President determines, and reports to the Congress, that—

(1) that country is engaged in international activities directly and fundamentally contrary to United States national security interests;

(2) the president or any other government official of that country initiates martial law or a state of emergency for reasons other than to respond to a natural disaster or a foreign invasion; or

(3) any member who was elected to that country's parliament has been removed from that office or arrested through extraconstitutional processes.

SEC. 802.[50] DECLARATION OF THE REPUBLIC OF HUNGARY.

(a) FINDINGS.—The Congress finds that—

(1) on October 23, 1989, in a public ceremony in Budapest, the acting President of Hungary declared the Hungarian state to be an independent, democratic Republic of Hungary;

(2) this public ceremony was held on the 33d anniversary of Hungary's 1956 revolution that was bloodily suppressed by Soviet troops;

[47] 22 U.S.C. 5475.
[48] 22 U.S.C. 5476.
[49] 22 U.S.C. 5491.
[50] 22 U.S.C. 5492.

(3) this public ceremony was held in the same Kossuth Square where the first mass rally of the 1956 revolution was held;

(4) as a further symbol of Hungary's faithfulness to the legacy of the revolution of 1956, the declaration by the acting President was made from the same balcony from which Imre Nagy, the martyred Prime Minister of the revolutionary government of 1956, addressed the citizens of Budapest 33 years before;

(5) the heroic revolt and freedom fight of the Hungarian people in 1956 was an inspirational event, reminding a generation of Americans of the sacrifices people are willing to undertake as the price of liberty; and

(6) the present efforts of the Hungarian people to validate the legacy of the revolution of 1956 by establishing a free, independent, and prosperous Hungary have gained the sympathy and admiration of the American people.

(b) CONGRESSIONAL DECLARATIONS.—The Congress—

(1) congratulates the people of Hungary on the declaration of a Republic of Hungary committed to democratic principles; and

(2) expresses its desire to enhance the friendly relations between the people of Hungary and the people of the United States and between their respective governments.

SEC. 803.[51] ADMINISTRATIVE EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT.

For the purpose of paying administrative expenses incurred in connection with carrying out its functions under this Act, the Agency for International Development may use up to $500,000 each fiscal year of the funds made available to the Agency under this Act.

SEC. 804.[52] RELATION OF PROVISIONS OF THIS ACT TO CERTAIN PROVISIONS OF APPROPRIATIONS ACTS.

Any provision of the annual Foreign Operations, Export Financing, and Related Programs Appropriations Act that provides that assistance for Poland or Hungary under that Act may be provided "notwithstanding any other provision of law" shall not supersede any otherwise applicable provision of this Act. This section shall not, however, be construed to apply with respect to section 599C(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990[53] (or a corresponding provision of a subsequent such appropriations Acts.

SEC. 805.[54] CERTAIN USES OF EXCESS FOREIGN CURRENCIES.

(a) AUTHORITY TO USE.—During fiscal year 1990, the Administrator of the Agency for International Development may use, for

[51] 22 U.S.C. 5493.

[52] 22 U.S.C. 5494.

[53] Sec. 599C(b) of Public Law 101–167 provided that:

"Notwithstanding any other provision of this Act, any funds made available by this Act for a specific activity for Poland or Hungary instead may be obligated for Poland or Hungary for an activity with a similar purpose. The authority of section 515 of this Act may also be used to deobligate such funds and reobligate them for Poland or Hungary for an activity with a similar purpose: *Provided,* That the authority of this subsection shall be exercised subject to the regular notification procedures of the Committees on Appropriations.".

[54] 22 U.S.C. 5495.

the purposes described in subsection (b), such sums of foreign currencies described in subsection (c) as the Administrator may determine, subject to subsection (f).

(b) PURPOSES FOR WHICH CURRENCY MAY BE USED.—Foreign currencies may be used under this section—

(1) for the same purposes for which assistance may be provided under part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following; relating to economic assistance), and

(2) for the support of any institution providing education for a significant number of United States nationals (who may include members of the United States Armed Forces or the Foreign Service or dependents of such members).

(c) CURRENCIES WHICH MAY BE USED.—The foreign currencies which may be used under this section are United States-owned excess foreign currencies that are in excess of amounts necessary for satisfaction of preexisting commitments to use such currencies for other purposes specified by law.

(d) WHERE CURRENCIES MAY BE USED.—Foreign currencies may be used under this section in the country where such currencies are held or in other foreign countries.

(e) NONAPPLICABILITY OF OTHER PROVISIONS OF LAW.—Foreign currencies may be used under this section notwithstanding section 1306 of title 31, United States Code, or any other provision of law.

(f) REQUIREMENT FOR APPROPRIATIONS ACTION.—The authority of this section may be exercised only to such extent or in such amount as may be provided in advance in an appropriation Act.

(10) American Aid to Poland Act of 1988

Partial text of Public Law 100–418 [Omnibus Trade and Competitiveness Act of 1988, H.R. 4848], 102 Stat. 1107 at 1336, approved August 23, 1988; as amended by Public Law 101–513 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991; H.R. 5114], 104 Stat. 1979, approved November 5, 1990; and by Public Law 103–306 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995; H.R. 4426], 108 Stat. 1654, approved August 23, 1994

AN ACT To enhance the competitiveness of the American industry, and for other purposes.

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

* * * * * * *

PART II—ASSISTANCE TO POLAND

SEC. 2221.[1] SHORT TITLE.

This part may be cited as the "American Aid to Poland Act of 1988".

SEC. 2222. FUNDING FOR SCIENCE AND TECHNOLOGY AGREEMENT.

(a) FUNDING.—For purposes of implementing the 1987 United States-Polish science and technology agreement, there are authorized to be appropriated to the Secretary of State for fiscal year 1988, $1,000,000.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated under subsection (a) are authorized to remain available until expended.

(c) DEFINITION.—For purposes of this section, the term "1987 United States-Polish science and technology agreement" refers to the draft agreement concluded in 1987 by the United States and Poland, entitled "Agreement Between the Government of the United States of America and the Polish People's Republic on Cooperation in Science and Technology and Its Funding", together with annexes relating thereto.

SEC. 2223. DONATION OF SURPLUS AGRICULTURAL COMMODITIES.

(a) AUTHORITY TO DONATE.—Notwithstanding any other provision of law, if the Secretary of Agriculture determines for each fiscal year that (1) a donation under this section would not limit the Secretary's ability to meet urgent humanitarian needs for agricultural commodities, and (2) such donation would not cause a reduction in the price of the same or similar agricultural commodities produced in Poland[2] the Secretary of Agriculture shall donate,

[1] 7 U.S.C. 1431 note.

[2] Sec. 576(a)(1) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995 (Public Law 103–306; 108 Stat. 1654) inserted "if the Secretary of Agriculture determines for each fiscal year that (1) a donation under this section would not limit the Secretary's ability to meet urgent humanitarian needs for agricultural commodities, and (2) such donation would not cause a reduction in the price of the same or similar agricultural commodities produced in Poland" after "Notwithstanding any other provision of law".

under the applicable provisions of section 416(b) of the Agricultural Act of 1949, for each of the fiscal years 1995 through 1999,[3] 8,000 metric tons of uncommitted stocks of eligible commodities of the Commodity Credit Corporation under an agreement with the Government of Poland that the Government of Poland will sell such commodities and that all the proceeds from such sales will be used by governmental and[4] nongovernmental agencies for eligible activities in Poland described in section 416(b)(7)(D)(ii) of that Act (as amended by section 2225 of this Act) that have been approved, upon application, by the joint commission described in section 2226 and by the United States chief of diplomatic mission in Poland.

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

(1) the term "eligible commodities" has the same meaning as is given such term in section 416(b)(2) of the Agricultural Act of 1949 and, in addition, includes feed grains, soybeans, and soybean products;[5] and

(2) the term "nongovernmental agencies" includes nonprofit voluntary agencies, cooperatives, intergovernmental agencies such as the World Food Program, and other multilateral organizations.

SEC. 2224. USE OF POLISH CURRENCIES.

(a) USE OF POLISH CURRENCIES.—Subject to subsection (b), nonconvertible Polish currencies (zlotys) held by the United States on the date of enactment of this Act pursuant to an agreement with the Government of Poland under the Agricultural Trade Development and Assistance Act of 1954 which are not assets of the Commodity Credit Corporation shall be made available, to the extent and in such amounts as are provided in advance in appropriation Acts, for eligible activities in Poland described in section 416(b)(7)(D)(ii) of the Agricultural Act of 1949 (as amended by section 2225 of this Act) and approved, upon application, by the joint commission described in section 2226 and by the United States chief of diplomatic mission in Poland.

(b) AVAILABILITY OF CURRENCIES.—Currencies available under subsection (a) are currencies available after satisfaction of existing commitments to use such currencies for other purposes specified by law.

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SEC. 2226. JOINT COMMISSION.

(a) ESTABLISHMENT.—The joint commission referred to in sections 2223 and 2224 and in section 416(b)(7)(D)(ii) of the Agricultural Act of 1949 (as amended by section 2225 of this Act) shall be established under an agreement between the United States Government, the Government of Poland, and nongovernmental agencies (as defined in section 2223) operating in Poland.

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[3] Sec. 576(a)(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995 (Public Law 103–306; 108 Stat. 1654), struck out "1988 through 1992" and inserted in lieu thereof "1995 through 1999".

[4] Sec. 562 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 2032), inserted "governmental and" at this point, and made similar amendments at sec. 416(b)(7)(D)(ii) of the Agricultural Act of 1949.

[5] Sec. 576(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995 (Public Law 103–306; 108 Stat. 1654) inserted "soybeans, and soybean products" after "feed grains".

(b) MEMBERSHIP.—The joint commission shall be composed of—

(1) appropriate representatives of the Government of Poland;

(2) appropriate representatives of nongovernmental agencies which are parties to the agreement described in subsection (a); and

(3) representatives from the United States diplomatic mission in Poland, which may include a representative of the Foreign Agricultural Service.

SEC. 2227. PROVISION OF MEDICAL SUPPLIES AND HOSPITAL EQUIPMENT TO POLAND.

In addition to amounts authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund) for fiscal years 1988 and 1989, there are authorized to be appropriated to carry out that chapter for each such fiscal year $2,000,000, which shall be available only for providing medical supplies and hospital equipment to Poland through private and voluntary organizations, including for the expenses of purchasing, transporting, and distributing such supplies and equipment.

(11) Clement J. Zablocki Memorial Outpatient Facility, American Children's Hospital, Krakow, Poland

Public Law 98–266 [H.R. 4835], 98 Stat. 153, approved April 17, 1984

AN ACT To authorize funding for the Clement J. Zablocki Memorial Outpatient Facility at the American Children's Hospital in Krakow, Poland.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) such amounts as may be necessary of the Polish currencies held by the United States shall be available for construction of a new facility at the American Children's Hospital in Krakow, Poland, which would be known as the Clement J. Zablocki Outpatient Facility. Such currencies may be utilized without regard to the requirements of section 1306 of title 31, the United States Code, or any other provision to law.

(b) There are authorized to be appropriated to the President $10,000,000 of which—

(1) $3,000,000 shall be for equipping and furnishing the Clement J. Zablocki Outpatient Facility at the American Children's Hospital in Krakow, Poland;

(2) $3,000,000 shall be for improving medical equipment at the American Children's Hospital in Krakow, Poland; and

(3) $4,000,000 shall be for providing medical supplies to Poland through private and voluntary agencies, including the expenses of purchasing, transporting, and distributing such supplies.

Amounts appropriated pursuant to this subsection are authorized to remain available until expended.[1]

[1] Second Supplemental Appropriations Act, 1984, provided the following:

"CLEMENT J. ZABLOCKI MEMORIAL OUTPATIENT FACILITY IN POLAND

"For an additional amount for the 'Economic Support Fund', to carry out Public Law 98–266, $10,000,000, to remain available until expended.".

(12) Research and Training for Eastern Europe and the Independent States of the Former Soviet Union Act of 1983

Partial text of Public Law 98–164 [H.R. 2915], 97 Stat. 1017 at 1047, approved November 22, 1983; amended by Public Law 102–138 [Foreign Relations Authorization Act, Fiscal Years 1992 and 1993; H.R. 1415], 105 Stat. 647, approved October 28, 1991; Public Law 103–199 [FRIENDSHIP Act; H.R. 3000], 107 Stat. 2317, approved December 17, 1993; and by Public Law 105–244 [Higher Education Amendments of 1998; H.R. 6], 112 Stat. 1581, approved October 7, 1998

AN ACT To authorize appropriations for fiscal years 1984 and 1985 for the Department of State, the United States Information Agency, the Board for International Broadcasting, the Inter-American Foundation, and the Asia Foundation, to establish the National Endowment for Democracy, and for other purposes.

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

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TITLE VIII—RESEARCH AND TRAINING FOR EASTERN EUROPE AND THE INDEPENDENT STATES OF THE FORMER SOVIET UNION [1]

SHORT TITLE

SEC. 801. This title may be cited as the "Research and Training for Eastern Europe and the Independent States of the Former Soviet Union Act of 1983".[1]

FINDINGS AND DECLARATIONS

SEC. 802.[2] The Congress finds and declares that—

(1) factual knowledge, independently verified, about the countries of Eastern Europe and the independent states of the former Soviet Union [3] is of the utmost importance for the national security of the United States, for the furtherance of our national interests in the conduct of foreign relations, and for the prudent management of our domestic affairs;

(2) the development and maintenance of knowledge about the countries of Eastern Europe and the independent states of the former Soviet Union [3] depends upon the national capability for advanced research by highly trained and experienced specialists, available for service in and out of Government;

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[1] Sec. 302 of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2322 amended the title heading and the short title, both of which formerly referred to Soviet-Eastern European research and training.

[2] 22 U.S.C. 4501.

[3] Sec. 302(3) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2322) struck out "Soviet Union and Eastern European countries" in paras. (1), (2), and (3)(E) of sec. 802, and inserted in lieu thereof "countries of Eastern Europe and the independent states of the former Soviet Union".

(3) certain essential functions are necessary to ensure the existence of that knowledge and the capability to sustain it, including—

(A) graduate training;

(B) advanced research;

(C) public dissemination of research data, methods, and findings;

(D) contact and collaboration among Government and private specialists; and

(E) firsthand experience of the countries of Eastern Europe and the independent states of the former Soviet Union[3] by American specialists, including on site conduct of advanced training and research to the extent practicable; and

(4) it is in the national interest for the United States Government to provide a stable source of financial support for the functions described in this section and to supplement the financial support for those functions which is currently being furnished by Federal, State, local regional, and private agencies, organizations, and individuals, and thereby to stabilize the conduct of these functions on a national scale, consistently, and on a long range unclassified basis.

DEFINITIONS

SEC. 803.[4] As used in this title—

(1) the term "institution of higher education" has the same meaning given such term in section 101[5] of the Higher Education Act of 1965; and

(2) the term "Advisory Committee" means the Advisory Committee for Studies of Eastern Europe and the Independent States of the Former Soviet Union[6] established by section 804(a).

ESTABLISHMENT OF THE[7] ADVISORY COMMITTEE

SEC. 804.[8] (a) There is established within the Department of State the Advisory Committee for Studies of Eastern Europe and the Independent States of the Former Soviet Union[9] which shall be composed of the Secretary of State, the Secretary of Defense, the Secretary of Education, the Librarian of Congress, the President of the American Association for the Advancement of Slavic Studies,

[4] 22 U.S.C. 4502.

[5] Sec. 102(a)(7)(A) of the Higher Education Amendments of 1998 (Public Law 105–244; 112 Stat. 1619) struck out "1201(a)", and inserted in lieu thereof "101".

[6] Sec. 302(4) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2322) struck out "Soviet-Eastern European Studies Advisory Committee" and inserted in lieu thereof "Advisory Committee for Studies of Eastern Europe and the Independent States of the Former Soviet Union".

[7] Sec. 302(5(A) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2317) struck out "SOVIET-EASTERN EUROPEAN STUDIES" from the section heading.

[8] 22 U.S.C. 4503.

[9] Sec. 302(5)(B) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2322) struck out "Soviet-Eastern European Studies Advisory Committee" and inserted in lieu thereof "Advisory Committee for Studies of Eastern Europe and the Independent States of the Former Soviet Union".

and the President of the Association of American Universities. The Secretary of State shall be the Chairman.[10]

(b) The Advisory Committee shall meet at the call of the Chairman and shall hold at least one meeting each year. Three members of the Advisory Committee shall constitute a quorum.

(c) The Secretary of State may detail personnel of the Department of State to provide technical and clerical assistance to the Advisory Committee in carrying out its functions under this title.

(d) The Advisory Committee shall recommend grant policies for the advancement of the objectives of this title. In proposing recipients for grants under this title, the Advisory Committee shall give the highest priority to national organizations with an interest and expertise in conducting research and training concerning the countries of Eastern Europe and the independent states of the former Soviet Union[11] and in disseminating the results of such research. In making its recommendations, the Advisory Committee shall emphasize the development of a stable, long-term research program.

AUTHORITY TO MAKE PAYMENTS

SEC. 805.[12] (a) The Secretary of State, after consultation with the Advisory Committee, shall make payments, in accordance with the provisions of this section, out of funds made available to carry out this title.[13]

(b)(1) One part of the payments made in each fiscal year shall be used to conduct a national research program at the postdoctoral or equivalent level, such program to include—

(A) the dissemination of information about the research program and the solicitation of proposals for research contracts from American institutions of higher education and not-for-profit corporations, such contracts to contain shared-cost provisions; and

(B) the awarding of contracts for such research projects as the respective institution determines will best serve to carry out the purposes of this title after reviewing proposals submitted under subparagraph (A).

(2) One part of the payments made in each fiscal year shall be used—

(A) to establish and carry out a program of graduate, postdoctoral, and teaching fellowships for advanced training in studies on the countries of Eastern Europe and the independent states of the former Soviet Union[14] and related studies, such program—

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[10] The functions of the Chairman conferred upon the Secretary of State by this section were delegated to the Director of the Bureau of Intelligence and Research, pursuant to State Department Delegation of Authority No. 155 (September 21, 1984, 49 F.R. 39002).

[11] Sec. 302(5)(C) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2322) struck out "Soviet and Eastern European countries" and inserted in lieu thereof "the countries of Eastern Europe and the independent states of the former Soviet Union".

[12] 22 U.S.C. 4504.

[13] The functions of making payments conferred upon the Secretary of State by this subsec. were delegated to the Director of the Bureau of Intelligence and Research, pursuant to State Department Delegation of Authority No. 155 (September 21, 1984, 49 F.R. 39002).

[14] Sec. 302(6(A) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2322) struck out "Soviet and Eastern European studies" in paras. (2)(A), (2)(B), and (6) in sec. 805(b), and inserted in lieu thereof "studies on the countries of Eastern Europe and the independent states of the former Soviet Union".

(i) to be coordinated with the research program described in paragraph (1);

(ii) to be conducted, on a shared-cost basis, at American institutions of higher education; and

(iii) to include—

(I) the dissemination of information on the fellowship program and the solicitation of applications for fellowships from qualified institutions of higher education and qualified individuals; and

(II) the awarding of such fellowships as the respective institution determines will best serve to carry out the purposes of this title after reviewing applications submitted under subclause (I); and

(B) to disseminate research, data, and findings on studies on the countries of Eastern Europe and the independent states of the former Soviet Union [14] and related fields in such a manner and to such extent as the respective institution determines will best serve to carry out the purposes of this title.

(3) One part of the payments made in each fiscal year shall be used—

(A) to provide fellowship and research support for American specialists in the independent states of the former Soviet Union and the countries of Eastern Europe and related fields [15] to conduct advanced research with particular emphasis upon the use of data on those state and countries; [16] and

(B) to conduct seminars, conferences, and other similar workshops designed to facilitate research collaboration between Government and private specialists in the independent states of the former Soviet Union and the countries of Eastern Europe and related fields.[15]

(4) One part of the payments made in each fiscal year shall be used to conduct specialized programs in advanced training and research on a reciprocal basis in the independent states of the former Soviet Union [17] and the countries of Eastern Europe designed to facilitate access for American specialists to research institutes, personnel, archives, documentation, and other research and training resources located in those states and countries.[18]

(5) One part of the payments made in each fiscal year shall be used to support training in the languages of the independent states of the former Soviet Union and the countries of Eastern Europe.[19]

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[15] Sec. 302(6)(B) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2322) struck out "fields of Soviet and Eastern European studies and related studies" in paras. (3)(A) and (3)(B) of sec. 805(b), and inserted in lieu thereof "independent states of the former Soviet Union and the countries of Eastern Europe and related fields".

[16] Sec. 302(6(C) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2322) struck out "the Soviet Union and Eastern European countries" and inserted in lieu thereof "those states and countries".

[17] Sec. 302(6)(D)(i) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2322) struck out "Union of Soviet Socialist Republics" the first place it appeared in para. (4), and inserted in lieu thereof "independent states of the former Soviet Union".

[18] Sec. 302(6)(D)(ii) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2322) struck out "the Union of Soviet Socialist Republics and Eastern European countries", and inserted in lieu thereof "those states and countries".

[19] Sec. 302(6)(E)(i) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2322) struck out "language training in Russian and Eastern European languages." in the first sentence and inserted in lieu thereof "training in the languages of the independent states of the former Soviet Union and the countries of Eastern Europe.".

Such payments shall include grants to individuals to pursue such training and to summer language institutes operated by institutions of higher education. Preference shall be given for Russian language studies and, as appropriate, studies of other languages of the independent states of the former Soviet Union.[20]

(6) Payments may be made to carry out other research and training in studies on the countries of Eastern Europe and the independent states of the former Soviet Union[14] not otherwise described in this section.

APPLICATIONS; PAYMENTS TO ELIGIBLE ORGANIZATIONS

SEC. 806.[21] (a) Any institution seeking funding under this title shall prepare and submit an application to the Secretary of State once each fiscal year. Each such application shall—

(1) provide a description of the purposes for which the payments will be used in accordance with section 805; and

(2) provide such fiscal control and such accounting procedures as may be necessary (A) to ensure a proper accounting of Federal funds paid under this title, and (B) to ensure the verification of the costs of the continuing education and research programs conducted under this title.

(b) Payments under this title may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on account of overpayments and underpayments.

REPORT

SEC. 807.[22] The Secretary of State shall prepare and submit to the President and the Congress at the end of each fiscal year in which an institution receives assistance under this title a report of the activities of such institution supported by such assistance, if the administrative expenses of such institution which are covered by such assistance represent more than 10 percent of such assistance, together with such recommendations as the Advisory Committee deems advisable.

FEDERAL CONTROL OF EDUCATION PROHIBITED

SEC. 808.[23] Nothing contained in this title may be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction or research, administration, or personnel of any educational institution.

ALLOCATION OF FUNDS

SEC. 809.[24] Of the funds authorized to be appropriated by section 102(1) of this Act—[25]

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[20] Sec. 302(6)(E)(ii) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2322) inserted "and, as appropriate, studies of other languages of the independent states of the former Soviet Union" in the last sentence.

[21] 22 U.S.C. 4505.

[22] 22 U.S.C. 4506.

[23] 22 U.S.C. 4507.

[24] 22 U.S.C. 4508.

Sec. 105 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993, (Public Law 102–138; 105 Stat. 654) provided the following:

(1) up to $5,000,000 for the fiscal year 1984 shall be available to carry out this title; and

(2) $5,000,000 for the fiscal year 1985 shall be available only to carry out this title.

TERMINATION

SEC. 810.[26] * * * [Repealed—1991]

"(2) SOVIET-EAST EUROPEAN RESEARCH AND TRAINING.—For 'Soviet-East European Research and Training', $4,784,000 for the fiscal year 1992 and $5,025,000 for the fiscal year 1993.".

Previous years' authorizations were: fiscal year 1986—$4,800,000; fiscal year 1987—$5,000,000; fiscal year 1988—$4,600,000; fiscal year 1989—$5,000,000; fiscal year 1990—$4,600,000; fiscal year 1991—$5,200,000.

[25] Sec. 102(1) authorized funds for "Administration of foreign affairs" within the Department of State for fiscal years 1984 and 1985. Authorizations for "Soviet-East European Research and Training" in following years appeared in State Department Authorization Acts for those years.

[26] 22 U.S.C. 4509. Sec. 810 was repealed by sec. 209 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138; 105 Stat. 694). It had provided that "The provisions of this title shall cease to be effective at the end of the 10-year period beginning on the date of enactment of this title.".

(13) Central European Enterprise Development

Partial text of Small Business Act [Act of July 30, 1953, c. 282, 67 Stat. 232, amended]; further amended by Public Law 101–515 [Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991; H.R. 5021], 104 Stat. 2101, approved November 5, 1990; Public Law 103–81 [Small Business Guaranteed Credit Enhancement Act of 1993; S. 1274], 107 Stat. 780, approved August 13, 1993; and by Public Law 103–405 [Small Business Administration Reauthorization and Amendments Act of 1994; S. 2060], 108 Stat. 4175, approved October 22, 1994

* * * * * * *

SEC. 25.[1] (a) There is hereby established a Central European Small Business Enterprise Development Commission (hereinafter in this section referred to as the "Commission"). The Commission shall be comprised of a representative of each of the following: the Small Business Administration, the Association of American Universities, and the Association of Small Business Development Centers.

(b) The Commission shall develop in Czechoslovakia, Poland and Hungary (hereinafter referred to as "designated Central European countries") a self-sustaining system to provide management and technical assistance to small business owners.

(1) Not later than 90 days after the effective date of this section, the Commission, in consultation with the Agency for International Development, shall enter a contract with one or more entities to—

(A) determine the needs of small businesses in the designated Central European countries for management and technical assistance;

(B) evaluate appropriate Small Business Development Center-programs which might be replicated in order to meet the needs of each of such countries; and

(C) identify and assess the capability of educational institutions in each such country to develop a Small Business Development Center type program.

(2) Not later than 18 months after the effective date of this section, the Commission shall review the recommendations submitted to it and shall formulate and contract for the establishment of a three-year management and technical assistance demonstration program.

(c) In order to be eligible to participate, the educational institution in each designated Central European country shall—

(1) obtain the prior approval of the government to conduct the program;

[1] 15 U.S.C. 652.

(2) agree to provide partial financial support for the program, either directly or indirectly, during the second and third years of the demonstration program; and

(3) agree to obtain private sector involvement in the delivery of assistance under the program.

(d) The Commission shall meet and organize not later than 30 days after the date of enactment of this section.

(e) Members of the Commission shall serve without pay, except they shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out their functions in the same manner as persons employed intermittently in the Federal Government are allowed expenses under section 5703 of title 5, United States Code.

(f) Two Commissioners shall constitute a quorum for the transaction of business. Meetings shall be at the call of the Chairperson who shall be elected by the Members of the Commission.

(g) The Commission shall not have any authority to appoint staff, but upon request of the Chairperson, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of such department or agency to the Commission to assist in carrying out the Commission's functions under this section without regard to section 3341 of title 5 of the United States Code. The Administrator of the General Services Administration shall provide, on a reimbursable basis, such administrative support services as the Commission may request.

(h) The Commission shall report to Congress not later than December 1, 1991, and annually thereafter, on the progress in carrying out the provisions of this section.

(i) There are hereby authorized to be appropriated to the Small Business Administration the sum of $3,000,000 for fiscal year 1991, $5,000,000 for fiscal year 1992, $2,000,000 for each of fiscal years 1993 and 1994, and $1,000,000 for fiscal year 1995[2] to carry out the provisions of this section. Such sums shall be disbursed by the Small Business Administration as requested by the Commission and may remain available until expended. Any authority to enter contracts or other spending authority provided for in this section is subject to amounts provided for in advance in appropriations Acts.

* * * * * * *

[2] Sec. 9(b) of the Small Business Guaranteed Credit Enhancement Act of 1993 (Public Law 103–81; 107 Stat. 783) struck "$8,000,000 for fiscal year 1993" and inserted in lieu thereof "$2,000,000 for each of fiscal years 1993 and 1994". Subsequently, sec. 405 of the Small Business Reauthorization and Amendments Act of 1994 (Public Law 103–403; 108 Stat. 4192) struck out "and $2,000,000 for each of fiscal years 1993 and 1994" and inserted in lieu thereof ", $2,000,000 for each of fiscal years 1993 and 1994, and $1,000,000 for fiscal year 1995".

(14) Support for East European Democracy (SEED) Program

Executive Order 12703, February 20, 1990, 55 F.R. 6351, 22 U.S.C. 5401 note; as amended by Executive Order 13118, March 31, 1999, 64 F.R. 16595

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Support for East European Democracy (SEED) Act (P.L. 101–179, hereinafter referred to as the "Act") and section 301 of Title 3 of the United States Code, it is hereby ordered as follows:

Section 1. *SEED Program Coordinator.* The functions conferred by Title VII of the Act relating to reports to the Congress are hereby delegated to the Coordinator of the SEED Program. The Coordinator is authorized to assign responsibility for particular aspects of the reports to appropriate agencies.

Sec. 2.[1] *Department of State.* The functions conferred upon the President by section 201 of the Act relating to Enterprise Funds for Poland and Hungary are hereby delegated tot he Secretary of State.

Sec. 3. *Department of Commerce.* The functions conferred upon the President by section 602 of the Act regarding the establishment of a SEED Information Center System in cooperation with the Governments of Poland and Hungary are hereby delegated to the Secretary of Commerce. This authority is to be exercised in consultation with the SEED Program Coordinator and in consultation with other agencies as appropriate.

Sec. 4. *Department of the Treasury.* The functions conferred upon the President by section 104 of the Act regarding debt reduction of certain East European countries are hereby delegated to the Secretary of the Treasury. The Secretary shall consult, as appropriate, with other relevant agencies in exercising the functions herein delegated.

[1] Sec. 10(2) of Executive Order 13118 (64 F.R. 16598) amended and restated sec. 2, which formerly had delegated functions pursuant to sec. 201 of the SEED Act to the Administrator of the United States Agency for International Development.

(15) Delegation of Functions Under the FREEDOM Support Act and Related Provisions of the Foreign Operations, Export Financing, and Related Programs Appropriations Act

Executive Order 12884 of December 1, 1993; 58 F.R. 64099; 22 U.S.C. 5812 note; amended by Executive Order 13030 of December 12, 1996, 61 F.R. 66187; and by Executive Order 13118, March 31, 1999, 64 F.R. 16595

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the FREEDOM Support Act (Public Law 102–511) (the "Act"), the Foreign Assistance Act of 1961, as amended (the "Foreign Assistance Act"), the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1993 (Public Law 102–391), and section 301 of title 3, United States Code, it is hereby ordered as follows:

Section 1. *Secretary of State.* (a) There are delegated to the Secretary of State the functions conferred upon the President by:

(1) section 907 of the Act;

(2) paragraphs (1), (2), (3), and (5)[1] of section 498A(b) of the Foreign Assistance Act;

(3) paragraph (1) of section 498A(C) of the Foreign Assistance Act and the requirement to make reports under that section regarding determinations under that paragraph; and

(4) section 599B of Public Law 102–391.

(b) The Secretary of State may at any time exercise any function delegated to the Coordinator under this order or otherwise assigned to the Coordinator.

Sec. 2. *Coordinator.* There are delegated to the Coordinator designated in accordance with section 102 of the Act the functions conferred upon the President by:

(a) section 104 of the Act, and the Coordinator is authorized to assign responsibility for particular aspects of the reports described in that section to the heads of appropriate agencies;

(b) section 301 of the Act, insofar as it relates to determinations and directives;

(c) section 498A(a), section 498B(c), and section 498B(g) of the Foreign Assistance Act; and

(d) paragraph (2) of section 498A(c) of the Foreign Assistance Act and the requirement to make reports under that section regarding determinations under that paragraph.

[1] Sec. 3 of Executive Order 13030, December 12, 1996 (61 F.R. 66187), added reference to para. (5).

Sec. 3.[2] *Secretary of State—Additional Functions.* There are delegated to the Secretary of State the functions conferred upon the President by:

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

(b) section 498 and section 498C(b)(2) of the Foreign Assistance Act;

(c) paragraph (3) of section 498A(c) of the Foreign Assistance Act and the requirement to make reports under that section regarding determinations under that paragraph;

(d) subsection (d) under the heading "Assistance for the New Independent States of the Former Soviet Union" contained in Title II of Public Law 102–391; and

(e) section 592 of Public Law 102–391, except to the extent otherwise provided in section 5(b) of this order.

Sec. 4. *Secretary of Agriculture.* There are delegated to the Secretary of Agriculture the functions conferred upon the President by section 807(d) of the Act.

Sec. 5. *Other Agencies.* The functions conferred upon the President by:

(a) sections 498B(h) and 498B(i) of the Foreign Assistance Act are delegated to the head of the agency that is responsible for administering the particular program or activity with respect to which the authority is to be exercised; and

(b) the third proviso in section 592 of Public Law 102–391 are delegated to the head of each agency that is responsible for administering relevant programs or activities.

Sec. 6. *General.* (a) The functions described in sections 4 and 5[3] of this order shall be exercised subject to the authority of the Coordinator under section 102(a) of the Act or otherwise.

(b) As used in this order, the word "function" includes any duty, obligations, power, authority, responsibility, right, privilege, discretion, or activity.

(c) Functions delegated under this order shall be construed as excluded from the functions delegated under section 1–102(a) of Executive Order No. 12161, as amended.

(d) Any officer to whom functions are delegated or otherwise assigned under this order may, to the extent consistent with law, redelegate such functions and authorize their successive redelegation.

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[2] Sec. 1422(a)(4) of the Foreign Affairs Reform and Restructuring Act of 1998 (Public Law 105–277; 112 Stat. 2681–792) stated that sec. 3 "shall cease to be effective". Sec. 10(1)(a) of Executive Order 13118 (64 F.R. 16598), however, subsequently struck out "*International Development Cooperation Agency.* There are delegated to the United States International Development Cooperation the functions conferred upon the President by:" and inserted in lieu thereof "*Secretary of State—Additional Functions.* There are delegated to the Secretary of State the functions conferred upon the President by:".

[3] Sec. 10(1)(b) of Executive Order 13118 (64 F.R. 16598) struck out "3, 4, and 5" and inserted in lieu thereof "4 and 5".

c. Assistance to Africa [1]

(1) Zimbabwe Democracy and Economic Recovery Act of 2001

Public Law 107–99 [S. 494], 115 Stat. 962, approved December 21, 2001

AN ACT To provide for a transition to democracy and to promote economic recovery in Zimbabwe.

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

SECTION 1.[2] SHORT TITLE.

This Act may be cited as the "Zimbabwe Democracy and Economic Recovery Act of 2001".

SEC. 2. STATEMENT OF POLICY.

It is the policy of the United States to support the people of Zimbabwe in their struggle to effect peaceful, democratic change, achieve broad-based and equitable economic growth, and restore the rule of law.

SEC. 3. DEFINITIONS.

In this Act:

(1) INTERNATIONAL FINANCIAL INSTITUTIONS.—The term "international financial institutions" means the multilateral development banks and the International Monetary Fund.

(2) MULTILATERAL DEVELOPMENT BANKS.—The term "multilateral development banks" means the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the Asian Development Bank, the Inter-American Investment Corporation, the African Development Bank, the African Development Fund, the European Bank for Reconstruction and Development, and the Multilateral Investment Guaranty Agency.

SEC. 4. SUPPORT FOR DEMOCRATIC TRANSITION AND ECONOMIC RECOVERY.

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

(1) Through economic mismanagement, undemocratic practices, and the costly deployment of troops to the Democratic Republic of the Congo, the Government of Zimbabwe has rendered itself ineligible to participate in International Bank for Reconstruction and Development and International Monetary Fund programs, which would otherwise be providing substantial resources to assist in the recovery and modernization of

[1] See also the Comprehensive Peace in Sudan Act of 2004 (Public Law 108–497) and the Sudan Peace Act (Public Law 107–245), in *Legislation on Foreign Relations Through 2004*, vol. I–A.

[2] 22 U.S.C. 2151 note.

Zimbabwe's economy. The people of Zimbabwe have thus been denied the economic and democratic benefits envisioned by the donors to such programs, including the United States.

(2) In September 1999 the IMF suspended its support under a "Stand By Arrangement", approved the previous month, for economic adjustment and reform in Zimbabwe.

(3) In October 1999, the International Development Association (in this section referred to as the "IDA") suspended all structural adjustment loans, credits, and guarantees to the Government of Zimbabwe.

(4) In May 2000, the IDA suspended all other new lending to the Government of Zimbabwe.

(5) In September 2000, the IDA suspended disbursement of funds for ongoing projects under previously-approved loans, credits, and guarantees to the Government of Zimbabwe.

(b) SUPPORT FOR DEMOCRATIC TRANSITION AND ECONOMIC RECOVERY.—

(1) BILATERAL DEBT RELIEF.—Upon receipt by the appropriate congressional committees of a certification described in subsection (d), the Secretary of the Treasury shall undertake a review of the feasibility of restructuring, rescheduling, or eliminating the sovereign debt of Zimbabwe held by any agency of the United States Government.

(2) MULTILATERAL DEBT RELIEF AND OTHER FINANCIAL ASSISTANCE.—It is the sense of Congress that, upon receipt by the appropriate congressional committees of a certification described in subsection (d), the Secretary of the Treasury should—

(A) direct the United States executive director of each multilateral development bank to propose that the bank should undertake a review of the feasibility of restructuring, rescheduling, or eliminating the sovereign debt of Zimbabwe held by that bank; and

(B) direct the United States executive director of each international financial institution to which the United States is a member to propose to undertake financial and technical support for Zimbabwe, especially support that is intended to promote Zimbabwe's economic recovery and development, the stabilization of the Zimbabwean dollar, and the viability of Zimbabwe's democratic institutions.

(c) MULTILATERAL FINANCING RESTRICTION.—Until the President makes the certification described in subsection (d), and except as may be required to meet basic human needs or for good governance, the Secretary of the Treasury shall instruct the United States executive director to each international financial institution to oppose and vote against—

(1) any extension by the respective institution of any loan, credit, or guarantee to the Government of Zimbabwe; or

(2) any cancellation or reduction of indebtedness owed by the Government of Zimbabwe to the United States or any international financial institution.

(d) PRESIDENTIAL CERTIFICATION THAT CERTAIN CONDITIONS ARE SATISFIED.—A certification under this subsection is a certification

transmitted to the appropriate congressional committees of a determination made by the President that the following conditions are satisfied:

(1) RESTORATION OF THE RULE OF LAW.—The rule of law has been restored in Zimbabwe, including respect for ownership and title to property, freedom of speech and association, and an end to the lawlessness, violence, and intimidation sponsored, condoned, or tolerated by the Government of Zimbabwe, the ruling party, and their supporters or entities.

(2) ELECTION OR PRE-ELECTION CONDITIONS.—Either of the following two conditions is satisfied:

(A) PRESIDENTIAL ELECTION.—Zimbabwe has held a presidential election that is widely accepted as free and fair by independent international monitors, and the president-elect is free to assume the duties of the office.

(B) PRE-ELECTION CONDITIONS.—In the event the certification is made before the presidential election takes place, the Government of Zimbabwe has sufficiently improved the pre-election environment to a degree consistent with accepted international standards for security and freedom of movement and association.

(3) COMMITMENT TO EQUITABLE, LEGAL, AND TRANSPARENT LAND REFORM.—The Government of Zimbabwe has demonstrated a commitment to an equitable, legal, and transparent land reform program consistent with agreements reached at the International Donors' Conference on Land Reform and Resettlement in Zimbabwe held in Harare, Zimbabwe, in September 1998.

(4) FULFILLMENT OF AGREEMENT ENDING WAR IN DEMOCRATIC REPUBLIC OF CONGO.—The Government of Zimbabwe is making a good faith effort to fulfill the terms of the Lusaka, Zambia, agreement on ending the war in the Democratic Republic of Congo.

(5) MILITARY AND NATIONAL POLICE SUBORDINATE TO CIVILIAN GOVERNMENT.—The Zimbabwean Armed Forces, the National Police of Zimbabwe, and other state security forces are responsible to and serve the elected civilian government.

(e) WAIVER.—The President may waive the provisions of subsection (b)(1) or subsection (c), if the President determines that it is in the national interest of the United States to do so.

SEC. 5. SUPPORT FOR DEMOCRATIC INSTITUTIONS, THE FREE PRESS AND INDEPENDENT MEDIA, AND THE RULE OF LAW.

(a) IN GENERAL.—The President is authorized to provide assistance under part I and chapter 4 of part II of the Foreign Assistance Act of 1961 to—

(1) support an independent and free press and electronic media in Zimbabwe;

(2) support equitable, legal, and transparent mechanisms of land reform in Zimbabwe, including the payment of costs related to the acquisition of land and the resettlement of individuals, consistent with the International Donors' Conference on Land Reform and Resettlement in Zimbabwe held in Harare, Zimbabwe, in September 1998, or any subsequent agreement relating thereto; and

(3) provide for democracy and governance programs in Zimbabwe.

(b) FUNDING.—Of the funds authorized to be appropriated to carry out part I and chapter 4 of part II of the Foreign Assistance Act of 1961 for fiscal year 2002—

(1) $20,000,000 is authorized to be available to provide the assistance described in subsection (a)(2); and

(2) $6,000,000 is authorized to be available to provide the assistance described in subsection (a)(3).

(c) SUPERSEDES OTHER LAWS.—The authority in this section supersedes any other provision of law.

SEC. 6. SENSE OF CONGRESS ON THE ACTIONS TO BE TAKEN AGAINST INDIVIDUALS RESPONSIBLE FOR VIOLENCE AND THE BREAKDOWN OF THE RULE OF LAW IN ZIMBABWE.

It is the sense of Congress that the President should begin immediate consultation with the governments of European Union member states, Canada, and other appropriate foreign countries on ways in which to—

(1) identify and share information regarding individuals responsible for the deliberate breakdown of the rule of law, politically motivated violence, and intimidation in Zimbabwe;

(2) identify assets of those individuals held outside Zimbabwe;

(3) implement travel and economic sanctions against those individuals and their associates and families; and

(4) provide for the eventual removal or amendment of those sanctions.

(2) African Growth and Opportunity Act

Partial text of Public Law 106–200 [Trade and Development Act of 2000; H.R. 4283], 114 Stat. 251, approved May 18, 2000

AN ACT To authorize a new trade and investment policy for sub-Saharan Africa, expand trade benefits to the countries in the Caribbean Basin, renew the generalized system of preferences, and reauthorize the trade adjustment assistance programs.

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

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TITLE I—EXTENSION OF CERTAIN TRADE BENEFITS TO SUB-SAHARAN AFRICA

Subtitle A—Trade Policy for Sub-Saharan Africa

SEC. 101.[1] SHORT TITLE.

This title may be cited as the "African Growth and Opportunity Act".

SEC. 102.[2] FINDINGS.

Congress finds that—

(1) it is in the mutual interest of the United States and the countries of sub-Saharan Africa to promote stable and sustainable economic growth and development in sub-Saharan Africa;

(2) the 48 countries of sub-Saharan Africa form a region richly endowed with both natural and human resources;

(3) sub-Saharan Africa represents a region of enormous economic potential and of enduring political significance to the United States;

(4) the region has experienced the strengthening of democracy as countries in sub-Saharan Africa have taken steps to encourage broader participation in the political process;

(5) certain countries in sub-Saharan Africa have increased their economic growth rates, taken significant steps towards liberalizing their economies, and made progress toward regional economic integration that can have positive benefits for the region;

(6) despite those gains, the per capita income in sub-Saharan Africa averages approximately $500 annually;

(7) trade and investment, as the American experience has shown, can represent powerful tools both for economic development and for encouraging broader participation in a political process in which political freedom can flourish;

[1] 19 U.S.C. 3701 note.
[2] 19 U.S.C. 3701.

(8) increased trade and investment flows have the greatest impact in an economic environment in which trading partners eliminate barriers to trade and capital flows and encourage the development of a vibrant private sector that offers individual African citizens the freedom to expand their economic opportunities and provide for their families;

(9) offering the countries of sub-Saharan Africa enhanced trade preferences will encourage both higher levels of trade and direct investment in support of the positive economic and political developments under way throughout the region; and

(10) encouraging the reciprocal reduction of trade and investment barriers in Africa will enhance the benefits of trade and investment for the region as well as enhance commercial and political ties between the United States and sub-Saharan Africa.

SEC. 103.[3] STATEMENT OF POLICY.

Congress supports—

(1) encouraging increased trade and investment between the United States and sub-Saharan Africa;

(2) reducing tariff and nontariff barriers and other obstacles to sub-Saharan African and United States trade;

(3) expanding United States assistance to sub-Saharan Africa's regional integration efforts;

(4) negotiating reciprocal and mutually beneficial trade agreements, including the possibility of establishing free trade areas that serve the interests of both the United States and the countries of sub-Saharan Africa;

(5) focusing on countries committed to the rule of law, economic reform, and the eradication of poverty;

(6) strengthening and expanding the private sector in sub-Saharan Africa, especially enterprises owned by women and small businesses;

(7) facilitating the development of civil societies and political freedom in sub-Saharan Africa;

(8) establishing a United States-Sub-Saharan Africa Trade and Economic Cooperation Forum; and

(9) the accession of the countries in sub-Saharan Africa to the Organization for Economic Cooperation and Development (OECD) Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

SEC. 104.[4] ELIGIBILITY REQUIREMENTS.

(a) IN GENERAL.—The President is authorized to designate a sub-Saharan African country as an eligible sub-Saharan African country if the President determines that the country—

(1) has established, or is making continual progress toward establishing—

[3] 19 U.S.C. 3702.
[4] 19 U.S.C. 3703.

(A) a market-based economy that protects private property rights, incorporates an open rules-based trading system, and minimizes government interference in the economy through measures such as price controls, subsidies, and government ownership of economic assets;

(B) the rule of law, political pluralism, and the right to due process, a fair trial, and equal protection under the law;

(C) the elimination of barriers to United States trade and investment, including by—

(i) the provision of national treatment and measures to create an environment conducive to domestic and foreign investment;

(ii) the protection of intellectual property; and

(iii) the resolution of bilateral trade and investment disputes;

(D) economic policies to reduce poverty, increase the availability of health care and educational opportunities, expand physical infrastructure, promote the development of private enterprise, and encourage the formation of capital markets through micro-credit or other programs;

(E) a system to combat corruption and bribery, such as signing and implementing the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions; and

(F) protection of internationally recognized worker rights, including the right of association, the right to organize and bargain collectively, a prohibition on the use of any form of forced or compulsory labor, a minimum age for the employment of children, and acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health;

(2) does not engage in activities that undermine United States national security or foreign policy interests; and

(3) does not engage in gross violations of internationally recognized human rights or provide support for acts of international terrorism and cooperates in international efforts to eliminate human rights violations and terrorist activities.

(b) CONTINUING COMPLIANCE.—If the President determines that an eligible sub-Saharan African country is not making continual progress in meeting the requirements described in subsection (a)(1), the President shall terminate the designation of the country made pursuant to subsection (a).

SEC. 105.[5] UNITED STATES-SUB-SAHARAN AFRICA TRADE AND ECONOMIC COOPERATION FORUM.

(a) DECLARATION OF POLICY.—The President shall convene annual high-level meetings between appropriate officials of the United States Government and officials of the governments of sub-Saharan African countries in order to foster close economic ties between the United States and sub-Saharan Africa.

[5] 19 U.S.C. 3704.

(b) ESTABLISHMENT.—Not later than 12 months after the date of the enactment of this Act, the President, after consulting with Congress and the governments concerned, shall establish a United States-Sub-Saharan Africa Trade and Economic Cooperation Forum (in this section referred to as the "Forum").

(c) REQUIREMENTS.—In creating the Forum, the President shall meet the following requirements:

(1) The President shall direct the Secretary of Commerce, the Secretary of the Treasury, the Secretary of State, and the United States Trade Representative to host the first annual meeting with their counterparts from the governments of sub-Saharan African countries eligible under section 104, and those sub-Saharan African countries that the President determines are taking substantial positive steps towards meeting the eligibility requirements in section 104. The purpose of the meeting shall be to discuss expanding trade and investment relations between the United States and sub-Saharan Africa and the implementation of this title including encouraging joint ventures between small and large businesses. The President shall also direct the Secretaries and the United States Trade Representative to invite to the meeting representatives from appropriate sub-Saharan African regional organizations and government officials from other appropriate countries in sub-Saharan Africa.

(2)(A) The President, in consultation with the Congress, shall encourage United States nongovernmental organizations to host annual meetings with nongovernmental organizations from sub-Saharan Africa in conjunction with the annual meetings of the Forum for the purpose of discussing the issues described in paragraph (1).

(B) The President, in consultation with the Congress, shall encourage United States representatives of the private sector to host annual meetings with representatives of the private sector from sub-Saharan Africa in conjunction with the annual meetings of the Forum for the purpose of discussing the issues described in paragraph (1).

(3) The President shall, to the extent practicable, meet with the heads of governments of sub-Saharan African countries eligible under section 104, and those sub-Saharan African countries that the President determines are taking substantial positive steps toward meeting the eligibility requirements in section 104, not less than once every 2 years for the purpose of discussing the issues described in paragraph (1). The first such meeting should take place not later than 12 months after the date of the enactment of this Act.

(d) DISSEMINATION OF INFORMATION BY USIS.—In order to assist in carrying out the purposes of the Forum, the United States Information Service shall disseminate regularly, through multiple media, economic information in support of the free market economic reforms described in this title.

(e) HIV/AIDS EFFECT ON THE SUB-SAHARAN AFRICAN WORKFORCE.—In selecting issues of common interest to the United States-Sub-Saharan Africa Trade and Economic Cooperation Forum, the President shall instruct the United States delegates to

the Forum to promote a review by the Forum of the HIV/AIDS epidemic in each sub-Saharan African country and the effect of the HIV/AIDS epidemic on economic development in each country.

SEC. 106.[6] REPORTING REQUIREMENT.

The President shall submit to the Congress, not later than 1 year after the date of the enactment of this Act, and annually thereafter through 2008, a comprehensive report on the trade and investment policy of the United States for sub-Saharan Africa, and on the implementation of this title and the amendments made by this title.

SEC. 107.[7] SUB-SAHARAN AFRICA DEFINED.

For purposes of this title, the terms "sub-Saharan Africa", "sub-Saharan African country", "country in sub-Saharan Africa", and "countries in sub-Saharan Africa" refer to the following or any successor political entities:

Republic of Angola (Angola).
Republic of Benin (Benin).
Republic of Botswana (Botswana).
Burkina Faso (Burkina).
Republic of Burundi (Burundi).
Republic of Cameroon (Cameroon).
Republic of Cape Verde (Cape Verde).
Central African Republic.
Republic of Chad (Chad).
Federal Islamic Republic of the Comoros (Comoros).
Democratic Republic of Congo.
Republic of the Congo (Congo).
Republic of Cote d'Ivoire (Cote d'Ivoire).
Republic of Djibouti (Djibouti).
Republic of Equatorial Guinea (Equatorial Guinea).
State of Eritrea (Eritrea).
Ethiopia.
Gabonese Republic (Gabon).
Republic of the Gambia (Gambia).
Republic of Ghana (Ghana).
Republic of Guinea (Guinea).
Republic of Guinea-Bissau (Guinea-Bissau).
Republic of Kenya (Kenya).
Kingdom of Lesotho (Lesotho).
Republic of Liberia (Liberia).
Republic of Madagascar (Madagascar).
Republic of Malawi (Malawi).
Republic of Mali (Mali).
Islamic Republic of Mauritania (Mauritania).
Republic of Mauritius (Mauritius).
Republic of Mozambique (Mozambique).
Republic of Namibia (Namibia).
Republic of Niger (Niger).
Federal Republic of Nigeria (Nigeria).
Republic of Rwanda (Rwanda).

[6] 19 U.S.C. 3705.
[7] 19 U.S.C. 3706.

Democratic Republic of Sao Tome and Principe (Sao Tome and Principe).
Republic of Senegal (Senegal).
Republic of Seychelles (Seychelles).
Republic of Sierra Leone (Sierra Leone).
Somalia.
Republic of South Africa (South Africa).
Republic of Sudan (Sudan).
Kingdom of Swaziland (Swaziland).
United Republic of Tanzania (Tanzania).
Republic of Togo (Togo).
Republic of Uganda (Uganda).
Republic of Zambia (Zambia).
Republic of Zimbabwe (Zimbabwe).

Subtitle B—Trade Benefits[8]

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Subtitle C—Economic Development Related Issues

SEC. 121.[9] SENSE OF THE CONGRESS REGARDING COMPREHENSIVE DEBT RELIEF FOR THE WORLD'S POOREST COUNTRIES.

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

(1) The burden of external debt has become a major impediment to economic growth and poverty reduction in many of the world's poorest countries.

(2) Until recently, the United States Government and other official creditors sought to address this problem by rescheduling loans and in some cases providing limited debt reduction.

(3) Despite such efforts, the cumulative debt of many of the world's poorest countries continued to grow beyond their capacity to repay.

(4) In 1997, the Group of Seven, the World Bank, and the International Monetary Fund adopted the Heavily Indebted Poor Countries Initiative (HIPC), a commitment by the international community that all multilateral and bilateral creditors, acting in a coordinated and concerted fashion, would reduce poor country debt to a sustainable level.

(5) The HIPC Initiative is currently undergoing reforms to address concerns raised about country conditionality, the amount of debt forgiven, and the allocation of savings realized through the debt forgiveness program to ensure that the Initiative accomplishes the goals of economic growth and poverty alleviation in the world's poorest countries.

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

(1) Congress and the President should work together, without undue delay and in concert with the international community, to make comprehensive debt relief available to the world's poorest countries in a manner that promotes economic growth and poverty alleviation;

[8] Subtitle B, pertaining to trade, may be found in *Legislation on Foreign Relations Through 2004*, vol. III.
[9] 19 U.S.C. 3731.

(2) this program of bilateral and multilateral debt relief should be designed to strengthen and expand the private sector, encourage increased trade and investment, support the development of free markets, and promote broad-scale economic growth in beneficiary countries;

(3) this program of debt relief should also support the adoption of policies to alleviate poverty and to ensure that benefits are shared widely among the population, such as through initiatives to advance education, improve health, combat AIDS, and promote clean water and environmental protection;

(4) these debt relief agreements should be designed and implemented in a transparent manner and with the broad participation of the citizenry of the debtor country and should ensure that country circumstances are adequately taken into account;

(5) no country should receive the benefits of debt relief if that country does not cooperate with the United States on terrorism or narcotics enforcement, is a gross violator of the human rights of its citizens, or is engaged in conflict or spends excessively on its military; and

(6) in order to prevent adverse impact on a key industry in many developing countries, the International Monetary Fund must mobilize its own resources for providing debt relief to eligible countries without allowing gold to reach the open market, or otherwise adversely affecting the market price of gold.

SEC. 122.[10] EXECUTIVE BRANCH INITIATIVES.

(a) STATEMENT OF THE CONGRESS.—The Congress recognizes that the stated policy of the executive branch in 1997, the "Partnership for Growth and Opportunity in Africa" initiative, is a step toward the establishment of a comprehensive trade and development policy for sub-Saharan Africa. It is the sense of the Congress that this Partnership is a companion to the policy goals set forth in this title.

(b) TECHNICAL ASSISTANCE TO PROMOTE ECONOMIC REFORMS AND DEVELOPMENT.—In addition to continuing bilateral and multilateral economic and development assistance, the President shall target technical assistance toward—

(1) developing relationships between United States firms and firms in sub-Saharan Africa through a variety of business associations and networks;

(2) providing assistance to the governments of sub-Saharan African countries to—

(A) liberalize trade and promote exports;

(B) bring their legal regimes into compliance with the standards of the World Trade Organization in conjunction with membership in that Organization;

(C) make financial and fiscal reforms; and

(D) promote greater agribusiness linkages;

(3) addressing such critical agricultural policy issues as market liberalization, agricultural export development, and agribusiness investment in processing and transporting agricultural commodities;

[10] 19 U.S.C. 3732.

(4) increasing the number of reverse trade missions to growth-oriented countries in sub-Saharan Africa;

(5) increasing trade in services; and

(6) encouraging greater sub-Saharan African participation in future negotiations in the World Trade Organization on services and making further commitments in their schedules to the General Agreement on Trade in Services in order to encourage the removal of tariff and nontariff barriers.

SEC. 123.[11] OVERSEAS PRIVATE INVESTMENT CORPORATION INITIATIVES.

(a) INITIATION OF FUNDS.—It is the sense of the Congress that the Overseas Private Investment Corporation should exercise the authorities it has to initiate an equity fund or equity funds in support of projects in the countries in sub-Saharan Africa, in addition to the existing equity fund for sub-Saharan Africa created by the Corporation.

(b) STRUCTURE AND TYPES OF FUNDS.—

(1) STRUCTURE.—Each fund initiated under subsection (a) should be structured as a partnership managed by professional private sector fund managers and monitored on a continuing basis by the Corporation.

(2) CAPITALIZATION.—Each fund should be capitalized with a combination of private equity capital, which is not guaranteed by the Corporation, and debt for which the Corporation provides guaranties.

(3) INFRASTRUCTURE FUND.—One or more of the funds, with combined assets of up to $500,000,000, should be used in support of infrastructure projects in countries of sub-Saharan Africa.

(4) EMPHASIS.—The Corporation shall ensure that the funds are used to provide support in particular to women entrepreneurs and to innovative investments that expand opportunities for women and maximize employment opportunities for poor individuals.

(c) OVERSEAS PRIVATE INVESTMENT CORPORATION.—

(1) INVESTMENT ADVISORY COUNCIL.—Section 233 of the Foreign Assistance Act of 1961 is amended by adding at the end the following: [12]

"(e) INVESTMENT ADVISORY COUNCIL.—The Board shall take prompt measures to increase the loan, guarantee, and insurance programs, and financial commitments, of the Corporation in sub-Saharan Africa, including through the use of an investment advisory council to assist the Board in developing and implementing policies, programs, and financial instruments with respect to sub-Saharan Africa. In addition, the investment advisory council shall make recommendations to the Board on how the Corporation can facilitate greater support by the United States for trade and investment with and in sub-Saharan Africa. The investment advisory council shall terminate 4 years after the date of the enactment of this subsection.".

[11] 19 U.S.C. 3733.

[12] See *Legislation on Foreign Relations Through 2004*, vol. I–A.

(2) REPORTS TO CONGRESS.—Within 6 months after the date of the enactment of this Act, and annually for each of the 4 years thereafter, the Board of Directors of the Overseas Private Investment Corporation shall submit to Congress a report on the steps that the Board has taken to implement section 233(e) of the Foreign Assistance Act of 1961 (as added by paragraph (1)) and any recommendations of the investment advisory council established pursuant to such section.

SEC. 124.[13] EXPORT-IMPORT BANK INITIATIVES.

(a) SENSE OF THE CONGRESS.—It is the sense of the Congress that the Board of Directors of the Bank shall continue to take comprehensive measures, consistent with the credit standards otherwise required by law, to promote the expansion of the Bank's financial commitments in sub-Saharan Africa under the loan, guarantee and insurance programs of the Bank.

(b) SUB-SAHARAN AFRICA ADVISORY COMMITTEE.—The sub-Saharan Africa Advisory Committee (SAAC) is to be commended for aiding the Bank in advancing the economic partnership between the United States and the nations of sub-Saharan Africa by doubling the number of sub-Saharan African countries in which the Bank is open for traditional financing and by increasing by tenfold the Bank's support for sales to sub-Saharan Africa from fiscal year 1998 to fiscal year 1999. The Board of Directors of the Bank and its staff shall continue to review carefully the sub-Saharan Africa Advisory Committee recommendations on the development and implementation of new and innovative policies and programs designed to promote the Bank's expansion in sub-Saharan Africa.

SEC. 125.[14] EXPANSION OF THE UNITED STATES AND FOREIGN COMMERCIAL SERVICE IN SUB-SAHARAN AFRICA.

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

(1) The United States and Foreign Commercial Service (hereafter in this section referred to as the "Commercial Service") plays an important role in helping United States businesses identify export opportunities and develop reliable sources of information on commercial prospects in foreign countries.

(2) During the 1980s, the presence of the Commercial Service in sub-Saharan Africa consisted of 14 professionals providing services in eight countries. By early 1997, that presence had been reduced by half to seven professionals in only four countries.

(3) Since 1997, the Department of Commerce has slowly begun to increase the presence of the Commercial Service in sub-Saharan Africa, adding five full-time officers to established posts.

(4) Although the Commercial Service Officers in these countries have regional responsibilities, this kind of coverage does not adequately service the needs of United States businesses attempting to do business in sub-Saharan Africa.

(5) The Congress has, on several occasions, encouraged the Commercial Service to focus its resources and efforts in countries or regions in Europe or Asia to promote greater United

[13] 19 U.S.C. 3734.
[14] 19 U.S.C. 3735.

States export activity in those markets, and similar encouragement should be provided for countries in sub-Saharan Africa as well.

(6) Because market information is not widely available in many sub-Saharan African countries, the presence of additional Commercial Service Officers and resources can play a significant role in assisting United States businesses in markets in those countries.

(b) APPOINTMENTS.—Subject to the availability of appropriations, by not later than December 31, 2001, the Secretary of Commerce, acting through the Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Service, shall take steps to ensure that—

(1) at least 20 full-time Commercial Service employees are stationed in sub-Saharan Africa; and

(2) full-time Commercial Service employees are stationed in not less than 10 different sub-Saharan African countries.

(c) INITIATIVE FOR SUB-SAHARAN AFRICA.—In order to encourage the export of United States goods and services to sub-Saharan African countries, the International Trade Administration shall make a special effort to—

(1) identify United States goods and services which are the best prospects for export by United States companies to sub-Saharan Africa;

(2) identify, where appropriate, tariff and nontariff barriers that are preventing or hindering sales of United States goods and services to, or the operation of United States companies in, sub-Saharan Africa;

(3) hold discussions with appropriate authorities in sub-Saharan Africa on the matters described in paragraphs (1) and (2) with a view to securing increased market access for United States exporters of goods and services;

(4) identify current resource allocations and personnel levels in sub-Saharan Africa for the Commercial Service and consider plans for the deployment of additional resources or personnel to that region; and

(5) make available to the public, through printed and electronic means of communication, the information derived pursuant to paragraphs (1) through (4) for each of the 4 years after the date of the enactment of this Act.

SEC. 126.[15] DONATION OF AIR TRAFFIC CONTROL EQUIPMENT TO ELIGIBLE SUB-SAHARAN AFRICAN COUNTRIES.

It is the sense of the Congress that, to the extent appropriate, the United States Government should make every effort to donate to governments of sub-Saharan African countries determined to be eligible under section 104 air traffic control equipment that is no longer in use, including appropriate related reimbursable technical assistance.

[15] 19 U.S.C. 3736.

SEC. 127.[16] ADDITIONAL AUTHORITIES AND INCREASED FLEXIBILITY TO PROVIDE ASSISTANCE UNDER THE DEVELOPMENT FUND FOR AFRICA.

(a) USE OF SUSTAINABLE DEVELOPMENT ASSISTANCE TO SUPPORT FURTHER ECONOMIC GROWTH.—It is the sense of the Congress that sustained economic growth in sub-Saharan Africa depends in large measure upon the development of a receptive environment for trade and investment, and that to achieve this objective the United States Agency for International Development should continue to support programs which help to create this environment. Investments in human resources, development, and implementation of free market policies, including policies to liberalize agricultural markets and improve food security, and the support for the rule of law and democratic governance should continue to be encouraged and enhanced on a bilateral and regional basis.

(b) DECLARATIONS OF POLICY.—The Congress makes the following declarations:

(1) The Development Fund for Africa established under chapter 10 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2293 et seq.) has been an effective tool in providing development assistance to sub-Saharan Africa since 1988.

(2) The Development Fund for Africa will complement the other provisions of this title and lay a foundation for increased trade and investment opportunities between the United States and sub-Saharan Africa.

(3) Assistance provided through the Development Fund for Africa will continue to support programs and activities that promote the long term economic development of sub-Saharan Africa, such as programs and activities relating to the following:

(A) Strengthening primary and vocational education systems, especially the acquisition of middle-level technical skills for operating modern private businesses and the introduction of college level business education, including the study of international business, finance, and stock exchanges.

(B) Strengthening health care systems.

(C) Supporting democratization, good governance and civil society and conflict resolution efforts.

(D) Increasing food security by promoting the expansion of agricultural and agriculture-based industrial production and productivity and increasing real incomes for poor individuals.

(E) Promoting an enabling environment for private sector-led growth through sustained economic reform, privatization programs, and market-led economic activities.

(F) Promoting decentralization and local participation in the development process, especially linking the rural production sectors and the industrial and market centers throughout Africa.

[16] 19 U.S.C. 3737.

(G) Increasing the technical and managerial capacity of sub-Saharan African individuals to manage the economy of sub-Saharan Africa.

(H) Ensuring sustainable economic growth through environmental protection.

(4) The African Development Foundation has a unique congressional mandate to empower the poor to participate fully in development and to increase opportunities for gainful employment, poverty alleviation, and more equitable income distribution in sub-Saharan Africa. The African Development Foundation has worked successfully to enhance the role of women as agents of change, strengthen the informal sector with an emphasis on supporting micro and small sized enterprises, indigenous technologies, and mobilizing local financing. The African Development Foundation should develop and implement strategies for promoting participation in the socioeconomic development process of grassroots and informal sector groups such as nongovernmental organizations, cooperatives, artisans, and traders into the programs and initiatives established under this title.

(c) ADDITIONAL AUTHORITIES.—

(1) IN GENERAL.—Section 496(h) of the Foreign Assistance Act of 1961 (22 U.S.C. 2293(h)) is amended—[17]

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following:

"(3) Democratization and conflict resolution capabilities.—Assistance under this section may also include program assistance—

"(A) to promote democratization, good governance, and strong civil societies in sub-Saharan Africa; and

"(B) to strengthen conflict resolution capabilities of governmental, intergovernmental, and nongovernmental entities in sub-Saharan Africa.".

(2) CONFORMING AMENDMENT.—Section 496(h)(4) of such Act, as amended by paragraph (1), is further amended by striking "paragraphs (1) and (2)" in the first sentence and inserting "paragraphs (1), (2), and (3)".

SEC. 128.[18] ASSISTANCE FROM UNITED STATES PRIVATE SECTOR TO PREVENT AND REDUCE HIV/AIDS IN SUB-SAHARAN AFRICA.

It is the sense of the Congress that United States businesses should be encouraged to provide assistance to sub-Saharan African countries to prevent and reduce the incidence of HIV/AIDS in sub-Saharan Africa. In providing such assistance, United States businesses should be encouraged to consider the establishment of an HIV/AIDS Response Fund in order to provide for coordination among such businesses in the collection and distribution of the assistance to sub-Saharan African countries.

[17] For text, see *Legislation on Foreign Relations Through 2004*, vol. I–A.
[18] 19 U.S.C. 3738.

SEC. 129.[19] SENSE OF THE CONGRESS RELATING TO HIV/AIDS CRISIS IN SUB-SAHARAN AFRICA.

(a) FINDINGS.—The Congress finds the following:

(1) Sustained economic development in sub-Saharan Africa depends in large measure upon successful trade with and foreign assistance to the countries of sub-Saharan Africa.

(2) The HIV/AIDS crisis has reached epidemic proportions in sub-Saharan Africa, where more than 21,000,000 men, women, and children are infected with HIV.

(3) Eighty-three percent of the estimated 11,700,000 deaths from HIV/AIDS worldwide have been in sub-Saharan Africa.

(4) The HIV/AIDS crisis in sub-Saharan Africa is weakening the structure of families and societies.

(5)(A) The HIV/AIDS crisis threatens the future of the workforce in sub-Saharan Africa.

(B) Studies show that HIV/AIDS in sub-Saharan Africa most severely affects individuals between the ages of 15 and 49—the age group that provides the most support for the economies of sub-Saharan African countries.

(6) Clear evidence demonstrates that HIV/AIDS is destructive to the economies of sub-Saharan African countries.

(7) Sustained economic development is critical to creating the public and private sector resources in sub-Saharan Africa necessary to fight the HIV/AIDS epidemic.

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

(1) addressing the HIV/AIDS crisis in sub-Saharan Africa should be a central component of United States foreign policy with respect to sub-Saharan Africa;

(2) significant progress needs to be made in preventing and treating HIV/AIDS in sub-Saharan Africa in order to sustain a mutually beneficial trade relationship between the United States and sub-Saharan African countries; and

(3) the HIV/AIDS crisis in sub-Saharan Africa is a global threat that merits further attention through greatly expanded public, private, and joint public-private efforts, and through appropriate United States legislation.

SEC. 130.[20] STUDY ON IMPROVING AFRICAN AGRICULTURAL PRACTICES.

(a) IN GENERAL.—The Secretary of Agriculture, in consultation with American Land Grant Colleges and Universities and not-for-profit international organizations, is authorized to conduct a 2-year study on ways to improve the flow of American farming techniques and practices to African farmers. The study shall include an examination of ways of improving or utilizing—

(1) knowledge of insect and sanitation procedures;

(2) modern farming and soil conservation techniques;

(3) modern farming equipment (including maintaining the equipment);

(4) marketing crop yields to prospective purchasers; and

(5) crop maximization practices.

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[19] 19 U.S.C. 3739.
[20] 19 U.S.C. 3740.

The Secretary of Agriculture shall submit the study to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives not later than September 30, 2001.

(b) LAND GRANT COLLEGES AND NOT-FOR-PROFIT INSTITUTIONS.—In conducting the study under subsection (a), the Secretary of Agriculture is encouraged to consult with American Land Grant Colleges and not-for-profit international organizations that have first-hand knowledge of current African farming practices.

SEC. 131.[21] SENSE OF THE CONGRESS REGARDING EFFORTS TO COMBAT DESERTIFICATION IN AFRICA AND OTHER COUNTRIES.

(a) FINDINGS.—The Congress finds that—

(1) desertification affects approximately one-sixth of the world's population and one-quarter of the total land area;

(2) over 1,000,000 hectares of Africa are affected by desertification;

(3) dryland degradation is an underlying cause of recurrent famine in Africa;

(4) the United Nations Environment Programme estimates that desertification costs the world $42,000,000,000 a year, not including incalculable costs in human suffering; and

(5) the United States can strengthen its partnerships throughout Africa and other countries affected by desertification, help alleviate social and economic crises caused by misuse of natural resources, and reduce dependence on foreign aid, by taking a leading role to combat desertification.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that the United States should expeditiously work with the international community, particularly Africa and other countries affected by desertification, to—

(1) strengthen international cooperation to combat desertification;

(2) promote the development of national and regional strategies to address desertification and increase public awareness of this serious problem and its effects;

(3) develop and implement national action programs that identify the causes of desertification and measures to address it; and

(4) recognize the essential role of local governments and non-governmental organizations in developing and implementing measures to address desertification.

* * * * * * *[22]

[21] 19 U.S.C. 3741.

[22] The remaining titles of this Act, relating to trade, may be found in *Legislation on Foreign Relations Through 2004*, vol. III.

(3) Africa: Seeds of Hope Act

Partial text of Public Law 105–385 [H.R. 4283], 112 Stat. 3460, approved November 13, 1998

AN ACT To support sustainable and broad-based agricultural and rural development in sub-Saharan Africa, and for other purposes.

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a)[1] SHORT TITLE.—This Act may be cited as the "Africa: Seeds of Hope Act of 1998".

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

Sec. 1. Short title; table of contents.
Sec. 2. Findings and declaration of policy.

TITLE I—ASSISTANCE FOR SUB-SAHARAN AFRICA

Sec. 101. Africa Food Security Initiative.
Sec. 102. Microenterprise assistance.
Sec. 103. Support for producer-owned cooperative marketing associations.
Sec. 104. Agricultural and rural development activities of the Overseas Private Investment Corporation.
Sec. 105. Agricultural research and extension activities.

TITLE II—WORLDWIDE FOOD ASSISTANCE AND AGRICULTURAL PROGRAMS

Subtitle A—Nonemergency Food Assistance Programs

Sec. 201. Nonemergency food assistance programs.

Subtitle B—Bill Emerson Humanitarian Trust Act of 1998

Sec. 211. Short title.
Sec. 212. Bill Emerson Humanitarian Trust Act.

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Report.

SEC. 2.[2] FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS.—Congress finds the following:

(1) The economic, security, and humanitarian interests of the United States and the nations of sub-Saharan Africa would be enhanced by sustainable, broad-based agricultural and rural development in each of the African nations.

(2) According to the Food and Agriculture Organization, the number of undernourished people in Africa has more than doubled, from approximately 100,000,000 in the late 1960s to 215,000,000 in 1998, and is projected to increase to

[1] 7 U.S.C. 1691 note.
[2] 22 U.S.C. 2293 note.

265,000,000 by the year 2010. According to the Food and Agriculture Organization, the term "under nutrition" means inadequate consumption of nutrients, often adversely affecting children's physical and mental development, undermining their future as productive and creative members of their communities.

(3) Currently, agricultural production in Africa employs about two-thirds of the workforce but produces less than one-fourth of the gross domestic product in sub-Saharan Africa, according to the World Bank Group.

(4) African women produce up to 80 percent of the total food supply in Africa according to the International Food Policy Research Institute.

(5) An effective way to improve conditions of the poor is to increase the productivity of the agricultural sector. Productivity increases can be fostered by increasing research and education in agriculture and rural development.

(6) In November 1996, the World Food Summit set a goal of reducing hunger worldwide by 50 percent by the year 2015 and encouraged national governments to develop domestic food plans and to support international aid efforts.

(7) Although the World Bank Group recently has launched a major initiative to support agricultural and rural development, only 10 percent, or $1,200,000,000, of its total lending to sub-Saharan Africa for fiscal years 1993 to 1997 was devoted to agriculture.

(8)(A) United States food processing and agricultural sectors benefit greatly from the liberalization of global trade and increased exports.

(B) Africa represents a growing market for United States food and agricultural products. Africa's food imports are projected to rise from less than 8,000,000 metric tons in 1990 to more than 25,000,000 metric tons by the 2020.

(9)(A) Increased private sector investment in African countries and expanded trade between the United States and Africa can greatly help African countries achieve food self-sufficiency and graduate from dependency on international assistance.

(B) Development assistance, technical assistance, and training can facilitate and encourage commercial development in Africa, such as improving rural roads, agricultural research and extension, and providing access to credit and other resources.

(10)(A) Several United States private voluntary organizations have demonstrated success in empowering Africans through direct business ownership and helping African agricultural producers more efficiently and directly market their products.

(B) Rural business associations, owned and controlled by farmer shareholders, also greatly help agricultural producers to increase their household incomes.

(b) DECLARATION OF POLICY.—It is the policy of the United States, consistent with title XII of part I of the Foreign Assistance Act of 1961, to support governments of sub-Saharan African countries, United States and African nongovernmental organizations, universities, businesses, and international agencies, to help ensure

the availability of basic nutrition and economic opportunities for individuals in sub-Saharan Africa, through sustainable agriculture and rural development.

TITLE I—ASSISTANCE FOR SUB-SAHARAN AFRICA

SEC. 101.[2] AFRICA FOOD SECURITY INITIATIVE.

(a) ADDITIONAL REQUIREMENTS IN CARRYING OUT THE INITIATIVE.—In providing development assistance under the Africa Food Security Initiative, or any comparable or successor program, the Administrator of the United States Agency for International Development—

(1) shall emphasize programs and projects that improve the food security of infants, young children, school-age children, women and food-insecure households, or that improve the agricultural productivity, incomes, and marketing of the rural poor in Africa;

(2) shall solicit and take into consideration the views and needs of intended beneficiaries and program participants during the selection, planning, implementation, and evaluation phases of projects;

(3) shall favor countries that are implementing reforms of their trade and investment laws and regulations in order to enhance free market development in the food processing and agricultural sectors; and

(4) shall ensure that programs are designed and conducted in cooperation with African and United States organizations and institutions, such as private and voluntary organizations, cooperatives, land-grant and other appropriate universities, and local producer-owned cooperative marketing and buying associations, that have expertise in addressing the needs of the poor, small-scale farmers, entrepreneurs, and rural workers, including women.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that, if there is an increase in funding for sub-Saharan programs, the Administrator of the United States Agency for International Development should proportionately increase resources to the Africa Food Security Initiative, or any comparable or successor program, for fiscal year 2000 and subsequent fiscal years in order to meet the needs of the countries participating in such Initiative.

SEC. 102.[2] MICROENTERPRISE ASSISTANCE.

(a) BILATERAL ASSISTANCE.—In providing microenterprise assistance for sub-Saharan Africa, the Administrator of the United States Agency for International Development shall, to the extent practicable, use credit and microcredit assistance to improve the capacity and efficiency of agriculture production in sub-Saharan Africa of small-scale farmers and small rural entrepreneurs. In providing assistance, the Administrator should use the applied research and technical assistance capabilities of United States land-grant universities.

(b) MULTILATERAL ASSISTANCE.—

(1) IN GENERAL.—The Administrator of the United States Agency for International Development shall continue to work with other countries, international organizations (including

multilateral development institutions), and entities assisting microenterprises and shall develop a comprehensive and coordinated strategy for providing microenterprise assistance for sub-Saharan Africa.

(2) ADDITIONAL REQUIREMENT.—In carrying out paragraph (1), the Administrator should encourage the World Bank Consultative Group to Assist the Poorest to coordinate the strategy described in such paragraph.

SEC. 103.[2] SUPPORT FOR PRODUCER-OWNED COOPERATIVE MARKETING ASSOCIATIONS.

(a) PURPOSES.—The purposes of this section are—

(1) to support producer-owned cooperative purchasing and marketing associations in sub-Saharan Africa;

(2) to strengthen the capacity of farmers in sub-Saharan Africa to participate in national and international private markets and to promote rural development in sub-Saharan Africa;

(3) to encourage the efforts of farmers in sub-Saharan Africa to increase their productivity and income through improved access to farm supplies, seasonal credit, technical expertise; and

(4) to support small businesses in sub-Saharan Africa as they grow beyond microenterprises.

(b) SUPPORT FOR PRODUCER-OWNED COOPERATIVE MARKETING ASSOCIATIONS.—

(1) ACTIVITIES.—

(A) IN GENERAL.—The Administrator of the United States Agency for International Development is authorized to utilize relevant foreign assistance programs and initiatives for sub-Saharan Africa to support private producer-owned cooperative marketing associations in sub-Saharan Africa, including rural business associations that are owned and controlled by farmer shareholders.

(B) ADDITIONAL REQUIREMENTS.—In carrying out subparagraph (A), the Administrator—

(i) shall take into account small-scale farmers, small rural entrepreneurs, and rural workers and communities; and

(ii) shall take into account the local-level perspectives of the rural and urban poor through close consultation with these groups, consistent with section 496(e)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2293(e)(1)).

(2) OTHER ACTIVITIES.—In addition to carrying out paragraph (1), the Administrator is encouraged—

(A) to cooperate with governments of foreign countries, including governments of political subdivisions of such countries, their agricultural research universities, and particularly with United States nongovernmental organizations and United States land-grant universities, that have demonstrated expertise in the development and promotion of successful private producer-owned cooperative marketing associations; and

(B) to facilitate partnerships between United States and African cooperatives and private businesses to enhance the

capacity and technical and marketing expertise of business associations in sub-Saharan Africa.

SEC. 104.[2] AGRICULTURAL AND RURAL DEVELOPMENT ACTIVITIES OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION.

(a) PURPOSE.—The purpose of this section is to encourage the Overseas Private Investment Corporation to work with United States businesses and other United States entities to invest in rural sub-Saharan Africa, particularly in ways that will develop the capacities of small-scale farmers and small rural entrepreneurs, including women, in sub-Saharan Africa.

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

(1) the Overseas Private Investment Corporation should exercise its authority under law to undertake an initiative to support private agricultural and rural development in sub-Saharan Africa, including issuing loans, guaranties, and insurance, to support rural development in sub-Saharan Africa, particularly to support intermediary organizations that—

(A) directly serve the needs of small-scale farmers, small rural entrepreneurs, and rural producer-owned cooperative purchasing and marketing associations;

(B) have a clear track-record of support for sound business management practices; and

(C) have demonstrated experience with participatory development methods; and

(2) the Overseas Private Investment Corporation should utilize existing equity funds, loan and insurance funds, to the extent feasible and in accordance with existing contractual obligations, to support agriculture and rural development in sub-Saharan Africa.

SEC. 105.[2] AGRICULTURAL RESEARCH AND EXTENSION ACTIVITIES.

(a) DEVELOPMENT OF PLAN.—The Administrator of the United States Agency for International Development, in consultation with the Secretary of Agriculture and appropriate Department of Agriculture agencies, especially the Cooperative State, Research, Education and Extension Service (CSREES), shall develop a comprehensive plan to coordinate and build on the research and extension activities of United States land-grant universities, international agricultural research centers, and national agricultural research and extension centers in sub-Saharan Africa.

(b) ADDITIONAL REQUIREMENTS.—Such plan shall seek to ensure that—

(1) research and extension activities will respond to the needs of small-scale farmers while developing the potential and skills of researchers, extension agents, farmers, and agribusiness persons in sub-Saharan Africa;

(2) sustainable agricultural methods of farming will be considered together with new technologies in increasing agricultural productivity in sub-Saharan Africa; and

(3) research and extension efforts will focus on sustainable agricultural practices and will be adapted to widely varying climates within sub-Saharan Africa.

TITLE II—WORLDWIDE FOOD ASSISTANCE AND AGRICULTURAL PROGRAMS

Subtitle A—Nonemergency Food Assistance Programs

SEC. 201.[3] NONEMERGENCY FOOD ASSISTANCE PROGRAMS.

(a) IN GENERAL.—In providing nonemergency assistance under title II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1721 et seq.), the Administrator of the United States Agency for International Development shall ensure that—

(1) in planning, decisionmaking, and implementation in providing such assistance, the Administrator takes into consideration local input and participation directly and through United States and indigenous private and voluntary organizations;

(2) each of the nonemergency activities described in paragraphs (2) through (6) of section 201 of such Act (7 U.S.C. 1721), including programs that provide assistance to people of any age group who are otherwise unable to meet their basic food needs (including feeding programs for the disabled, orphaned, elderly, sick and dying), are carried out; and

(3) greater flexibility is provided for program and evaluation plans so that such assistance may be developed to meet local needs, as provided for in section 202(f) of such Act (7 U.S.C. 1722(f)).

(b) OTHER REQUIREMENTS.—In providing assistance under the Agriculture Trade Development and Assistance Act of 1954, the Secretary of Agriculture and the Administrator of United States Agency for International Development shall ensure that commodities are provided in a manner that is consistent with sections 403(a) and (b) of such Act (7 U.S.C. 1733(a) and (b)).

Subtitle B—Bill Emerson Humanitarian Trust Act of 1998[4]

SEC. 211.[5] SHORT TITLE.

This subtitle may be cited as the "Bill Emerson Humanitarian Trust Act of 1998".

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TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. REPORT.

Not later than 6 months after the date of the enactment of this Act, the Administrator of the United States Agency for International Development, in consultation with the heads of other appropriate agencies, shall prepare and submit to Congress a report on how the Agency plans to implement sections 101, 102, 103, 105, and 201 of this Act, the steps that have been taken toward such implementation, and an estimate of all amounts expended or to be expended on related activities during the current and previous 4 fiscal years.

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[3] 7 U.S.C. 1721 note.

[4] Subtitle B, other than sec. 211, consists entirely of amendments to the Agricultural Act of 1980, and technical amendments to the Agricultural Trade Suspension Adjustment Act of 1980 and the Merchant Marine Act, 1936.

[5] 7 U.S.C. 1691 note.

(4) Prohibition on Assistance to Mauritania

Partial text of Public Law 104–319 [Human Rights, Refugee, and Other Foreign Relations Provisions Act of 1996; H.R. 4036], 110 Stat. 3864 at 3866, approved October 19, 1996

AN ACT Making certain provisions with respect to internationally recognized human rights, refugees, and foreign relations.

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

SECTION 1.[1] SHORT TITLE.

This Act may be cited as the "Human Rights, Refugee, and Other Foreign Relations Provisions Act of 1996".

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TITLE II—FOREIGN ASSISTANCE PROVISIONS

SEC. 201.[2] HUMAN RIGHTS REPORTS. * * *

SEC. 202.[3] ASSISTANCE FOR MAURITANIA.

(a) PROHIBITION.—The President should not provide economic assistance, military assistance or arms transfers to the Government of Mauritania unless the President certifies to the Congress that such Government has taken appropriate action to eliminate chattel slavery in Mauritania, including—

(1) the enactment of anti-slavery laws that provide appropriate punishment for violators of such laws; and

(2) the rigorous enforcement of such laws.

(b) DEFINITIONS.—For purposes of this section, the following definitions apply:

(1) ECONOMIC ASSISTANCE.—The term "economic assistance" means any assistance under part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), except that such term does not include humanitarian assistance.

(2) MILITARY ASSISTANCE OR ARMS TRANSFERS.—The term "military assistance or arms transfers" means—

(A) assistance under chapter 2 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 et seq.; relating to military assistance), including the transfer of excess defense articles under sections 516 through 519 of that Act (22 U.S.C. 2321j through 2321m);

(B) assistance under chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.; relating to international military education and training);

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[1] 22 U.S.C. 2151 note. For foreign relations provisions of Public Law 104–319, see *Legislation on Foreign Relations Through 2004*, vol. II.

[2] Sec. 201 amended the Foreign Assistance Act of 1961 at sec. 116(d) (22 U.S.C. 2151n(d)) and at sec. 502B(b) (22 U.S.C. 2304(b)). See *Legislation on Foreign Relations Through 2004*, vol. I–A.

[3] 22 U.S.C. 2151 note.

(C) assistance under the "Foreign Military Financing Program" under section 23 of the Arms Export Control Act (22 U.S.C. 2763); or

(D) the transfer of defense articles, defense services, or design and construction services under the Arms Export Control Act (22 U.S.C. 2751 et seq.), including defense articles and defense services licensed or approved for export under section 38 of that Act (22 U.S.C. 2778).

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(5) African Conflict Resolution Act

Public Law 103–381 [S. 2475], 108 Stat. 3513, approved October 19, 1995

AN ACT To authorize assistance to promote the peaceful resolution of conflicts in Africa.

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

SECTION. 1.[1] SHORT TITLE.

This Act may be cited as the "African Conflict Resolution Act".

SEC. 2.[1] FINDINGS AND STATEMENT OF POLICY.

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

(1) It is in the national interest of the United States to help build African capability in conflict resolution. A relatively small investment of assistance in promoting African conflict resolution—

(A) would reduce the enormous human suffering which is caused by wars in Africa;

(B) would help the United States avoid huge future expenditures necessitated by Somalia-like humanitarian disasters; and

(C) would reduce the need for United Nations intervention as African institutions develop the ability to resolve African conflicts.

(2) Africa, to a greater extent than any other continent, is afflicted by war. Africa has been marred by more than 20 major civil wars since 1960. Rwanda, Somalia, Angola, Sudan, Liberia, and Burundi are among those countries that have recently suffered serious armed conflict.

(3) In the last decade alone, between 2,000,000 and 4,000,000 Africans have died because of war. There were 5,200,000 refugees and 13,100,000 displaced people in Africa in 1993.

(4) Millions more Africans are currently at risk of war-related death. Looming or ongoing conflicts in Zaire, Angola, Sudan, Rwanda, and other countries threaten Africa's future.

(5) War has caused untold economic and social damage to the countries of Africa. Food production is impossible in conflict areas, and famine often results. Widespread conflict has condemned many of Africa's children to lives of misery and, in certain cases, has threatened the existence of traditional African cultures.

(6) Conflict and instability in Africa, particularly in large, potentially rich countries such as Angola, Sudan, and Zaire, deprive the global economy of resources and opportunities for trade and investment. Peace in these countries could make a

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

significant contribution to global economic growth, while creating new opportunities for United States businesses.

(7) Excessive military expenditures threaten political and economic stability in Africa while diverting scarce resources from development needs. Demobilization and other measures to reduce the size of African armies, and civilian control of the military under the rule of law are in the interest of international security and economic development.

(8) Conflict prevention, mediation, and demobilization are prerequisites to the success of development assistance programs. Nutrition and education programs, for example, cannot succeed in a nation at war. Billions of dollars of development assistance have been virtually wasted in war-ravaged countries such as Liberia, Somalia, and Sudan.

(9) Africans have a long tradition of informal mediation. This tradition should be built upon to create effective institutions through which Africans can resolve African conflicts.

(10) The effectiveness of U.S. support for conflict resolution programs requires coordination and collaboration with multilateral institutions and other bilateral donors.

(11) African institutions are playing an active role in conflict resolution and mediation utilizing the experience of elder statesmen. Groups such as the All African Council of Churches have assisted in defusing conflicts. The Economic Community of West African States (ECOWAS) has sought to address the conflict in Liberia by deploying an African peacekeeping force. The Southern African states have been working to prevent a crisis in Lesotho. The Intergovernmental Authority on Desertification and Drought (IGADD) has been engaged in attempting to resolve the conflict in Sudan.

(12) The Organization of African Unity, under the leadership of Secretary General Salim Salim, has established a conflict resolution mechanism and has been active in mediation and conflict resolution in several African countries.

(b) UNITED STATES POLICY.—The Congress declares, therefore, that a key goal for United States foreign policy should be to help institutionalize conflict resolution capability in Africa.

SEC. 3.[1] IMPROVING THE CONFLICT RESOLUTION CAPABILITIES OF THE ORGANIZATION OF AFRICAN UNITY.

(a) AUTHORIZATION OF ASSISTANCE.—The President is authorized to provide assistance to strengthen the conflict resolution capability of the Organization of African Unity, as follows:

(1) Funds may be provided to the Organization of African Unity for use in supporting its conflict resolution capability, including providing technical assistance.

(2) Funds may be used for expenses of sending individuals with expertise in conflict resolution to work with the Organization of African Unity.

(b) FUNDING.—Of the foreign assistance funds that are allocated for sub-Saharan Africa, not less than $1,500,000 for each of the fiscal years 1995 through 1998 should be used to carry out subsection (a).

SEC. 4.[1] IMPROVING CONFLICT RESOLUTION CAPABILITIES OF MULTILATERAL SUBREGIONAL ORGANIZATIONS IN AFRICA.

(a) AUTHORIZATION OF ASSISTANCE.—The President is authorized to provide assistance to strengthen the conflict resolution capabilities of subregional organizations established by countries in sub-Saharan Africa, as follows:

(1) Funds may be provided to such organizations for use in supporting their conflict resolution capability, including providing technical assistance.

(2) Funds may be used for the expenses of sending individuals with expertise in conflict resolution to work with such organizations.

(b) FUNDING.—Of the foreign assistance funds that are allocated for sub-Saharan Africa, such sums as may be necessary for each of the fiscal years 1995 through 1998 may be used to carry out subsection (a).

SEC. 5.[1] IMPROVING CONFLICT RESOLUTION CAPABILITIES OF NONGOVERNMENTAL ORGANIZATIONS.

(a) AUTHORIZATION OF ASSISTANCE.—The President is authorized to provide assistance to nongovernmental organizations that are engaged in mediation and reconciliation efforts in sub-Saharan Africa.

(b) FUNDING.—Of the foreign assistance funds that are allocated for sub-Saharan Africa, such sums as may be necessary for each of the fiscal years 1995 and 1996 should be used to carry out subsection (a).

SEC. 6.[1] AFRICAN DEMOBILIZATION AND RETRAINING PROGRAM.

(a) AUTHORIZATION OF ASSISTANCE.—In order to facilitate reductions in the size of the armed forces of countries of sub-Saharan Africa, the President is authorized to—

(1) provide assistance for the encampment and related activities for the purpose of demobilization of such forces; and

(2) provide assistance for the reintegration of demobilized military personnel into civilian society through activities such as retraining for civilian occupations, creation of income-generating opportunities, their reintegration into agricultural activities, and the transportation to the home areas of such personnel.

(b) FUNDING.—Of the foreign assistance funds that are allocated for sub-Saharan Africa, $25,000,000 for each of the fiscal years 1995 and 1996 should be used for the assistance described in subsection (a), if conditions permit.

(c) CIVILIAN INVOLVEMENT.—The President is also authorized to promote civilian involvement in the planning and organization of demobilization and reintegration activities.

SEC. 7.[1] TRAINING FOR AFRICANS IN CONFLICT RESOLUTION AND PEACEKEEPING.

(a) AUTHORIZATION.—The President is authorized to establish a program to provide education and training in conflict resolution and peacekeeping for civilian and military personnel of countries in sub-Saharan Africa.

(b) FUNDING.—Of the funds made available under chapter 5 of part II of the Foreign Assistance Act of 1961, such sums as may

be necessary for each of the fiscal years 1995 and 1996 should be used for the purposes of subsection (a).

SEC. 8.[1, 2] PLAN FOR UNITED STATES SUPPORT FOR CONFLICT RESOLUTION AND DEMOBILIZATION IN SUB-SAHARAN AFRICA.

(a) IN GENERAL.—Pursuant to the provisions of sections 3 through 7, the President should develop an integrated long-term plan, which incorporates local perspectives, to provide support for the enhancement of conflict resolution capabilities and demobilization activities in sub-Saharan Africa.

(b) CONTENTS OF PLAN.—Such plan should include:

(1) The type, purpose, amount, and duration of assistance that is planned to be provided to conflict resolution units in sub-Saharan Africa.

(2) The type and amount of assistance that is planned to be provided for the demobilization of military personnel of countries of sub-Saharan Africa, including—

(A) a list of which countries will receive such assistance and an explanation of why such countries were chosen for such assistance; and

(B) a list of other countries and international organizations that are providing assistance for such demobilization.

(3) The type and amount of assistance that is planned to be provided to nongovernmental organizations that are engaged in mediation and reconciliation efforts in sub-Saharan Africa.

(4) A description of proposed training programs for Africans in conflict resolution and peacekeeping under section 7, including a list of prospective participants and plans to expand such programs.

(5) The mechanisms to be used to coordinate interagency efforts to administer the plan.

(6) Efforts to seek the participation of other countries and international organizations to achieve the objectives of the plan.

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to the appropriate congressional committees a report containing a description of the plan developed under this section.

SEC. 9.[1, 2] REPORTING REQUIREMENT.

(a) REQUIREMENT.—The President shall submit to the appropriate congressional committees a report describing the efforts and progress made in carrying out the provisions of this Act.

(b) DATE OF SUBMISSION.—The first report submitted under subsection (a) shall be submitted no later than 180 days after the date of the enactment of this Act, and shall be submitted annually thereafter.

SEC. 10.[1] CONSULTATION REQUIREMENT.

The President shall consult with the appropriate congressional committees prior to providing assistance under sections 3 through 7.

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[2] Authorities vested in the President in secs. 8 and 9 were delegated to the Administrator of the Agency for International Development, in a Presidential memorandum of June 6, 1995 (60 F.R. 30771).

SEC. 11.[1] APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.

For purposes of this Act, the term "appropriate congressional committees" means the Committee on Foreign Affairs[3] and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

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

(6) South African Democratic Transition Support Act of 1993

Public Law 103–149 [H.R. 3225], 107 Stat. 1503, approved November 23, 1993

AN ACT To support the transition to nonracial democracy in South Africa.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "South African Democratic Transition Support Act of 1993".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) After decades of apartheid, South Africa has entered a new era which presents a historic opportunity for a transition to a peaceful, stable, and democratic future.

(2) The United States policy of economic sanctions toward the apartheid government of South Africa, as expressed in the Comprehensive Anti-Apartheid Act of 1986, helped bring about reforms in that system of government and has facilitated the establishment of a nonracial government.

(3) Through broad and open negotiations, the parties in South Africa have reached a landmark agreement on the future of their country. This agreement includes the establishment of a Transitional Executive Council and the setting of a date for nonracial elections.

(4) The international community has a vital interest in supporting the transition from apartheid toward nonracial democracy.

(5) The success of the transition in South Africa is crucial to the stability and economic development of the southern African region.

(6) Nelson Mandela of the African National Congress and other representative leaders in South Africa have declared that the time has come when the international community should lift all economic sanctions against South Africa.

(7) In light of recent developments, the continuation of these economic sanctions is detrimental to persons disadvantaged by apartheid.

(8) Those calling for the lifting of economic sanctions against South Africa have made clear that they do not seek the immediate termination of the United Nations-sponsored special sanctions relating to arms transfers, nuclear cooperation, and exports of oil. The Ad Hoc Committee on Southern Africa of the Organization of African Unity, for example, has urged that the oil embargo established pursuant to a 1986 General Assembly resolution be lifted after the establishment and commencement of the work of the Transitional Executive Council.

SEC. 3. UNITED STATES POLICY.

It is the sense of the Congress that—

(1) the United States should—

(A) strongly support the Transitional Executive Council in South Africa,

(B) encourage rapid progress toward the establishment of a nonracial democratic government in South Africa, and

(C) support a consolidation of democracy in South Africa through democratic elections for an interim government and a new nonracial constitution;

(2) the United States should continue to provide assistance to support the transition to a nonracial democracy in South Africa, and should urge international financial institutions and other donors to also provide such assistance;

(3) to the maximum extent practicable, the United States should consult closely with international financial institutions, other donors, and South African entities on a coordinated strategy to support the transition to a nonracial democracy in South Africa;

(4) in order to provide ownership and managerial opportunities, professional advancement, training, and employment for disadvantaged South Africans and to respond to the historical inequities created under apartheid, the United States should—

(A) promote the expansion of private enterprise and free markets in South Africa,

(B) encourage the South African private sector to take a special responsibility and interest in providing such opportunities, advancement, training, and employment for disadvantaged South Africans,

(C) encourage United States private sector investment in and trade with South Africa,

(D) urge United States investors to develop a working partnership with representative organs of South African civil society, particularly churches and trade unions, in promoting responsible codes of corporate conduct and other measures to address the historical inequities created under apartheid;

(5) the United States should urge the Government of South Africa to liberalize its trade and investment policies to facilitate the expansion of the economy, and to shift resources to meet the needs of disadvantaged South Africans;

(6) the United States should promote cooperation between South Africa and other countries in the region to foster regional stability and economic growth; and

(7) the United States should demonstrate its support for an expedited transition to, and should adopt a long term policy beneficial to the establishment and perpetuation of, a nonracial democracy in South Africa.

SEC. 4. REPEAL OF APARTHEID SANCTIONS LAWS AND OTHER MEASURES DIRECTED AT SOUTH AFRICA.

(a) COMPREHENSIVE ANTI-APARTHEID ACT.—* * *

(b) OTHER PROVISIONS.—* * *

(c) SANCTIONS MEASURES ADOPTED BY STATE OR LOCAL GOVERNMENTS OR PRIVATE ENTITIES.—

(1) POLICY REGARDING RESCISSION.—The Congress urges all State or local governments and all private entities in the United States that have adopted any restriction on economic interactions with South Africa, or any policy discouraging such interaction, to rescind such restriction or policy.

(2) REPEAL OF PROVISIONS RELATING TO WITHHOLDING FEDERAL FUNDS.—Effective October 1, 1995, the following provisions are repealed:

(A) The undesignated paragraph entitled "STATE AND LOCAL ANTI-APARTHEID POLICIES" in chapter IX of the Dire Emergency Supplemental Appropriations and Transfers, Urgent Supplementals, and Correcting Enrollment Errors Act of 1989 (22 U.S.C. 5117).

(B) Section 210 of the Urgent Supplemental Appropriations Act, 1986 (100 Stat. 749).

(d) CONTINUATION OF UN SPECIAL SANCTIONS.—It is the sense of the Congress that the United States should continue to respect United Nations Security Council resolutions on South Africa, including the resolution providing for a mandatory embargo on arms sales to South Africa and the resolutions relating to the import of arms, restricting exports to the South African military and police, and urging states to refrain from nuclear cooperation that would contribute to the manufacture and development by South Africa of nuclear weapons or nuclear devices.

SEC. 5. UNITED STATES ASSISTANCE FOR THE TRANSITION TO A NONRACIAL DEMOCRACY.

(a) IN GENERAL.—The President is authorized and encouraged to provide assistance under chapter 10 of part I of the Foreign Assistance Act of 1961 (relating to the Development Fund for Africa) or chapter 4 of part II of that Act (relating to the Economic Support Fund) to support the transition to nonracial democracy in South Africa. Such assistance shall—

(1) focus on building the capacity of disadvantaged South Africans to take their rightful place in the political, social, and economic systems of their country;

(2) give priority to working with and through South African nongovernmental organizations whose leadership and staff represent the majority population and which have the support of the disadvantaged communities being served by such organizations;

(3) in the case of education programs—

(A) be used to increase the capacity of South African institutions to better serve the needs of individuals disadvantaged by apartheid;

(B) emphasize education within South Africa to the extent that assistance takes the form of scholarships for disadvantaged South African students; and

(C) fund nontraditional training activities;

(4) support activities to prepare South Africa for elections, including voter and civic education programs, political party building, and technical electoral assistance;

(5) support activities and entities, such as the Peace Accord structures, which are working to end the violence in South Africa; and

(6) support activities to promote human rights, democratization, and a civil society.

(b) GOVERNMENT OF SOUTH AFRICA.—

(1) LIMITATION ON ASSISTANCE.—Except as provided in paragraph (2), assistance provided in accordance with this section may not be made available to the Government of South Africa, or organizations financed and substantially controlled by that government, unless the President certifies to the Congress that an interim government that was elected on a nonracial basis through free and fair elections has taken office in South Africa.

(2) EXCEPTIONS.—Notwithstanding paragraph (1), assistance may be provided for—

(A) the Transitional Executive Council;

(B) South African higher education institutions, particularly those traditionally disadvantaged by apartheid policies; and

(C) any other organization, entity, or activity if the President determines that the assistance would promote the transition to nonracial democracy in South Africa.

Any determination under subparagraph (C) should be based on consultations with South African individuals and organizations representative of the majority population in South Africa (particularly consultations through the Transitional Executive Council) and consultations with the appropriate congressional committees.

(c) INELIGIBLE ORGANIZATIONS.—

(1) ACTS OF VIOLENCE.—An organization that has engaged in armed struggle or other acts of violence shall not be eligible for assistance provided in accordance with this section unless that organization is committed to a suspension of violence in the context of progress toward nonracial democracy.

(2) VIEWS INCONSISTENT WITH DEMOCRACY AND FREE ENTERPRISE.—Assistance provided in accordance with this section may not be made available to any organization that has espoused views inconsistent with democracy and free enterprise unless such organization is engaged actively and positively in the process of transition to a nonracial democracy and such assistance would advance the United States objective of promoting democracy and free enterprise in South Africa.

SEC. 6. UNITED STATES INVESTMENT AND TRADE.

(a) TAX TREATY.—The President should begin immediately to negotiate a tax treaty with South Africa to facilitate United States investment in that country.

(b) OPIC.—The President should immediately initiate negotiations with the Government of South Africa for an agreement authorizing the Overseas Private Investment Corporation to carry out programs with respect to South Africa in order to expand United States investment in that country.

(c) TRADE AND DEVELOPMENT AGENCY.—In carrying out section 661 of the Foreign Assistance Act of 1961, the Director of the Trade and Development Agency should provide additional funds for activities related to projects in South Africa.

(d) EXPORT-IMPORT BANK.—The Export-Import Bank of the United States should expand its activities in connection with exports to South Africa.

(e) PROMOTING DISADVANTAGED ENTERPRISES.—

(1) INVESTMENT AND TRADE PROGRAMS.—Each of the agencies referred to in subsections (b) through (d) should take active steps to encourage the use of its programs to promote business enterprises in South Africa that are majority-owned by South Africans disadvantaged by apartheid.

(2) UNITED STATES GOVERNMENT PROCUREMENT.—To the extent not inconsistent with the obligations of the United States under any international agreement, the Secretary of State and the head of any other department or agency of the United States carrying out activities in South Africa shall, to the maximum extent practicable, in procuring goods or services, make affirmative efforts to assist business enterprises having more than 50 percent beneficial ownership by South African blacks or other nonwhite South Africans, notwithstanding any law relating to the making or performance of, or the expenditure of funds for, United States Government contracts.

SEC. 7. INFORMATION AND EDUCATIONAL EXCHANGE PROGRAMS.

The Director of the United States Information Agency should use the authorities of the United States Information and Educational Exchange Act of 1948 to promote the development of a nonracial democracy in South Africa.

SEC. 8. OTHER COOPERATIVE AGREEMENTS.

In addition to the actions specified in the preceding sections of this Act, the President should seek to conclude cooperative agreements with South Africa on a range of issues, including cultural and scientific issues.

SEC. 9. INTERNATIONAL FINANCIAL INSTITUTIONS AND OTHER DONORS.

(a) IN GENERAL.—The President should encourage other donors, particularly Japan and the European Community countries, to expand their activities in support of the transition to nonracial democracy in South Africa.

(b) INTERNATIONAL FINANCIAL INSTITUTIONS.—The Secretary of the Treasury should instruct the United States Executive Director of each relevant international financial institution, including the International Bank for Reconstruction and Development and the International Development Association, to urge that institution to initiate or expand its lending and other financial assistance activities to South Africa in order to support the transition to nonracial democracy in South Africa.

(c) TECHNICAL ASSISTANCE.—The Secretary of the Treasury should instruct the United States Executive Director of each relevant international financial institution to urge that institution to fund programs to initiate or expand technical assistance to South Africa for the purpose of training the people of South Africa in government management techniques.

SEC. 10. CONSULTATION WITH SOUTH AFRICANS.

In carrying out this Act, the President should consult closely with South African individuals and organizations representative of the majority population in South Africa (particularly consultations through the Transitional Executive Council) and others committed to abolishing the remnants of apartheid.

(7) Horn of Africa Recovery and Food Security Act

Public Law 102–274 [S. 985], 106 Stat. 115, approved April 21, 1992

AN ACT To assure the people of the Horn of Africa the right to food and the other basic necessities of life and to promote peace and development in the region.

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

SECTION 1.[1] SHORT TITLE.

This Act may be cited as the "Horn of Africa Recovery and Food Security Act".

SEC. 2.[1] FINDINGS.

The Congress makes the following findings:

(1) The Horn of Africa (the region comprised of Ethiopia, Somalia, Sudan, and Djibouti) is characterized by an extraordinary degree of food insecurity as a result of war, famine, mounting debt, recurrent drought, poverty, and agricultural disruption, as well as gross violations of human rights, political repression, environmental destruction, and the breakdown of such essential services as primary education and health care.

(2) Internal conflict and famine have killed an estimated 2,000,000 people in Ethiopia, Sudan, and Somalia since 1985, and generated another 8,000,000 displaced persons and refugees, a number so high as to make millions wards of the United Nations and the international community. Relief officials now estimate that another 15,000,000 to 20,000,000 people are threatened by starvation as civil war and drought continue to ravage the area.

(3) Governments and armed opposition groups in Ethiopia, Sudan, and Somalia have been guilty of gross violations of human rights, which further erode food security in those countries.

(4) Assistance policies have failed in large part because of political and economic insecurity, which have prevented the development of programs to achieve sustainable development and programs to achieve food security.

(5) Appropriate assistance should promote real food security, which means access by all people at all times to enough food for an active and healthy life and the availability of sufficient income and food to prevent chronic dependency upon food assistance.

(6) The end of the Cold War rivalries in the Horn of Africa affords the United States the opportunity to develop a policy which addresses the extraordinary food security problem in the region.

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

(7) Notwithstanding other pressing needs, the United States must accordingly fashion a new foreign policy toward the Horn of Africa and cooperate with other major donors and the United Nations—

(A) to develop an emergency relief plan which meets the immediate basic human needs that arise as long as civil strife and famine afflict the region;

(B) to promote immediately cease-fires, secure relief corridors, and an end to these conflicts; and

(C) to provide creative developmental assistance which attacks the root causes of famine and war and assists these nations on the path to long-term security, reconstruction, voluntary repatriation, economic recovery, democracy, and peace, and which targets assistance to assist the poor majority more effectively.

SEC. 3.[1] STATEMENT OF POLICY REGARDING INDIVIDUAL COUNTRIES.

(a) ETHIOPIA.—It is the sense of the Congress that the President should—

(1) call upon the authorities who now exercise control over the central government in Ethiopia to protect the basic human rights of all citizens, to release from detention all political prisoners and other detainees who were apprehended by the Mengistu regime, and to facilitate the distribution of international relief and emergency humanitarian assistance throughout the country;

(2) urge all authorities in Ethiopia to make good faith efforts to—

(A) make permanent the cease-fire now in place and to permit the restoration of tranquility in the country, and

(B) make arrangements for a transitional government that is broadly-based, that accommodates all appropriate points of view, that respects human rights, and that is committed to a process of reform leading to the writing of a constitution and the establishment of representative government; and

(3) support efforts to ensure that the people of Eritrea are able to exercise their legitimate political rights, consistent with international law, including the right to participate actively in the determination of their political future, and call upon the authorities in Eritrea to keep open the ports of Mitsiwa and Aseb and to continue to permit the use of those ports for the delivery and distribution of humanitarian assistance to Eritrea and to Ethiopia as a whole.

(b)[2] SOMALIA.—It is the sense of the Congress that the President should—

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[2] Two concurrent resolutions were considered and agreed to in the 102d Congress to reenforce this sense of the Congress. S. Con. Res. 132, agreed to in the Senate on August 3, 1992, and in the House on August 10, 1992, resolved:

"That the Congress—

"(1) condemns in the strongest possible terms the senseless and wanton destruction wrought by the political factions in Somalia;

"(2) strongly urges these factions to abide by the United Nations ceasefire and to allow the deployment of security forces to protect humanitarian relief deliveries and workers;

Continued

(1) use whatever diplomatic steps he considers appropriate to encourage a peaceful and democratic solution to the problems in Somalia;

(2) commit increased diplomatic resources and energies to resolving the fundamental political conflicts which underlie the protracted humanitarian emergencies in Somalia; and

(3) ensure, to the maximum extent possible and in conjunction with other donors, that emergency humanitarian assistance is being made available to those in need, and that none of the beneficiaries belong to military or paramilitary units.

(c) SUDAN.—It is the sense of the Congress that the President should—

(1) urge the Government of Sudan and the Sudanese People's Liberation Army to adopt at least a temporary cessation of hostilities in order to assure the delivery of emergency relief to civilians in affected areas;

(2) encourage active participation of the international community to meet the emergency relief needs of Sudan; and

(3) take steps to achieve a permanent peace.

SEC. 4.[1] HORN OF AFRICA RELIEF AND REHABILITATION PROGRAM.

(a) EQUITABLE DISTRIBUTION OF RELIEF AND REHABILITATION ASSISTANCE.—It should be the policy of the United States in promoting equitable distribution of relief and rehabilitation assistance in the Horn of Africa—

(1) to assure noncombatants (particularly refugees and displaced persons) equal and ready access to all food, emergency, and relief assistance and, if relief or relief agreements are blocked by one faction in a region, to continue supplies to the

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"(3) commends the dedicated and energetic efforts of United Nations Secretary-General Boutros Boutros Ghali, and his Special Envoy to Somalia, Ambassador Mohammed Sahnoun;

"(4) pays tribute to the courageous and heroic actions of the relief agencies working in Somalia;

"(5) calls upon the international community, through the United Nations, and in particular the United Nations specialized agencies, to immediately expand its relief efforts in Somalia;

"(6) recognizes with appreciation the July 27, 1992, statement of the President urging the United Nations to deploy a sufficient number of security guards to permit relief supplies to move into and within Somalia, and committing funds for such an effort; and

"(7) urges the President to work with the United Nations Security Council to deploy these security guards immediately, with or without the consent of the Somalia factions, in order to assure that humanitarian relief gets to those most in need, particularly the women, children and elderly of Somalia.".

H. Con. Res. 370, agreed to in the House on October 2, 1992, and in the Senate on October 8, 1992, resolved:

"That the President should—

"(1) express to the United Nations Security Council the desire and the willingness of the United States to participate, consistent with applicable United States legal requirements, in the deployment of armed United Nations security guards, as authorized by the Security Council, in order to secure emergency relief activities and enable greater numbers of international and Somali organizations and people to provide relief and rehabilitation assistance;

"(2) express to the United Nations Security Council that the exigency of the crisis in Somalia warrants authorization by the Security Council of the deployment of United Nations security guards even in the event that an invitation by the various warring Somali factions cannot be obtained;

"(3) encourage discussion of alternative strategies for solving the political crisis in Somalia;

"(4) support the United Nations-sponsored relief coordination conference for Somalia scheduled for mid-October 1992; and

"(5) make every effort to ensure that adequate United States financial support exists for the United Nations to carry out its humanitarian and peacekeeping/peacemaking mission in Somalia.".

civilian population located in the territory controlled by any opposing faction;

(2) to provide relief, rehabilitation, and recovery assistance to promote self-reliance; and

(3) to assure that relief is provided on the basis of need without regard to political affiliation, geographic location, or the ethnic, tribal, or religious identity of the recipient.

(b) MAXIMIZING INTERNATIONAL RELIEF EFFORTS.—It should be the policy of the United States in seeking to maximize relief efforts for the Horn of Africa—

(1) to redouble its commendable efforts to secure safe corridors of passage for emergency food and relief supplies in affected areas and to expand its support for the growing refugee population;

(2) to commit sufficient resources under title II of the Agricultural Trade Development and Assistance Act of 1954 (relating to emergency and private assistance programs), and under chapter 9 of part I of the Foreign Assistance Act of 1961 (relating to international disaster assistance), to meet urgent needs in the region and to utilize unobligated security assistance to bolster these resources;

(3) to consult with member countries of the European Community, Japan, and other major donors in order to increase overall relief and developmental assistance for the people in the Horn of Africa;

(4) to lend the full support of the United States to all aspects of relief operations in the Horn of Africa, and to work in support of United Nations and other international and voluntary agencies, in breaking the barriers currently threatening the lives of millions of refugees and others in need; and

(5) to urge the Secretary General of the United Nations to immediately appoint United Nations field coordinators for each country in the Horn of Africa who can act with the Secretary General's full authority.

(c) HORN OF AFRICA CIVIL STRIFE AND FAMINE ASSISTANCE.—

(1) AUTHORIZATION OF ASSISTANCE.—The President is authorized to provide international disaster assistance under chapter 9 of part I of the Foreign Assistance Act of 1961 for civil strife and famine relief and rehabilitation in the Horn of Africa.

(2) DESCRIPTION OF ASSISTANCE TO BE PROVIDED.—Assistance pursuant to this subsection shall be provided for humanitarian purposes and shall include—

(A) relief and rehabilitation projects to benefit the poorest people, including—

(i) the furnishing of seeds for planting, fertilizer, pesticides, farm implements, crop storage and preservation supplies, farm animals, and vaccine and veterinary services to protect livestock;

(ii) blankets, clothing, and shelter;

(iii) emergency health care; and

(iv) emergency water and power supplies;

(B) emergency food assistance (primarily wheat, maize, other grains, processed foods, and oils) for the affected and displaced civilian population of the Horn of Africa; and

(C) inland and ocean transportation of, and storage of, emergency food assistance, including the provision of trucks.

Assistance described in subparagraphs (B) and (C) shall be in addition to any such assistance provided under title II of the Agricultural Trade Development and Assistance Act of 1954.

(3) USE OF PVOS FOR RELIEF, REHABILITATION, AND RECOVERY PROJECTS.—Assistance under this subsection should be provided, to the maximum extent possible, through United States, international, and indigenous private and voluntary organizations.

(4) MANAGEMENT SUPPORT ACTIVITIES.—Up to two percent of the amount made available for each fiscal year under paragraph (5) for use in carrying out this subsection may be used by the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961 for management support activities associated with the planning, monitoring, and supervision of emergency humanitarian and food assistance in the Horn of Africa provided under this subsection and subsection (d).

(5) TRANSFER OF SECURITY ASSISTANCE FUNDS.—The authority of section 610 of the Foreign Assistance Act of 1961 may be used to transfer for use in carrying out this subsection, without regard to the 20–percent increase limitation contained in that section, unobligated security assistance funds made available for fiscal year 1992 and 1993. As used in this paragraph, the term "security assistance funds" means funds available for economic support assistance, foreign military financing assistance, or international military education and training.

(d) EMERGENCY FOOD ASSISTANCE.—The President is urged to use the authorities of title II of the Agricultural Trade Development and Assistance Act of 1954 to provide supplemental emergency food assistance for the various civilian victims of civil strife in the Horn of Africa, in accordance with paragraphs (2)(B), (2)(C), and (3) of subsection (c), in addition to the assistance otherwise provided for such purposes.

SEC. 5.[1] HORN OF AFRICA PEACE INITIATIVE.

(a) SUPPORT FOR GRASSROOTS PARTICIPATION.—It shall be the policy of the United States in promoting peace and development in the Horn of Africa—

(1) to support expanded pluralistic and popular participation, the process by which all groups of people are empowered to involve themselves directly in creating the structures, policies, and programs to contribute to equitable economic development, and to local, national, and regional peace initiatives;

(2) to ensure that all citizens enjoy the protection of civil, political, economic, social, religious, and cultural rights, an independent judiciary, and representative governmental institutions, regardless of gender, religion, ethnicity, occupation, or association; and

(3) to provide assistance to indigenous nongovernmental institutions that carry out activities in government-controlled or

opposition-controlled territories and have the capacity or potential to promote conflict resolution, to advance development programs, or to carry out relief activities such as those described in section 4(c)(2).

(b) CONSULTATIONS.—The President is encouraged to undertake immediate consultations with appropriate countries, with armed and unarmed parties in the Horn of Africa, and with the Secretary General of the United Nations, in order to bring about negotiated settlements of the armed conflicts in the Horn of Africa.

(c) MECHANISMS.—It is the sense of the Congress that the President should—

(1) direct the United States Representative to the United Nations to—

(A) urge the Secretary General of the United Nations to make cease-fires, safe corridors for emergency relief, and negotiated settlements of the armed conflicts in the Horn of Africa a high and urgent priority;

(B) propose that the United Nations Security Council establish a United Nations arms embargo to end the supply of arms to the region, pending the resolution of civil wars and other armed conflicts; and

(C) pledge diplomatic and material resources for enhanced United Nations peacekeeping and peacemaking activities in the region, including monitoring of cease-fires;

(2) play an active and ongoing role in other fora in pressing for negotiated settlements to armed conflicts in the Horn of Africa; and

(3) support and participate in regional and international peace consultations that include broad representation from the countries and factions concerned.

SEC. 6.[1] HORN OF AFRICA FOOD SECURITY AND RECOVERY STRATEGY.

(a) TARGETING ASSISTANCE TO AID THE POOR MAJORITY; USE OF PVOS AND INTERNATIONAL ORGANIZATIONS.—

(1) TARGETING ASSISTANCE.—United States developmental assistance for the Horn of Africa should be targeted to aid the poor majority of the people of the region (particularly refugees, women, the urban poor, and small-scale farmers and pastoralists) to the maximum extent practicable. United States Government aid institutions should seek to—

(A) build upon the capabilities and experiences of United States, international, and indigenous private and voluntary organizations active in local grassroots relief, rehabilitation, and development efforts;

(B) consult closely with such organizations and significantly incorporate their views into the policymaking process; and

(C) support the expansion and strengthening of their activities without compromising their private and independent nature.

(2) PVOS AND INTERNATIONAL ORGANIZATIONS.—While support from indigenous governments is crucial, sustainable development and food security in the Horn of Africa should be enhanced through the active participation of indigenous private

and voluntary organizations, as well as international private and voluntary organizations, and international organizations that have demonstrated their ability to work as partners with local nongovernmental organizations and are committed to promoting local grassroots activities on behalf of long-term development and self-reliance in the Horn of Africa.

(3) POLICY ON ASSISTANCE TO GOVERNMENTS.—United States assistance should not be provided to the Government of Ethiopia, the Government of Somalia, or the Government of Sudan until concrete steps toward peace, democracy, and human rights are taken in the respective country.

(4) SUPPORT FOR PVOS.—Meanwhile, the United States should provide developmental assistance to those countries by supporting United States, indigenous, and international private and voluntary organizations working in those countries. Such assistance should be expanded as quickly as possible.

(b) EXAMPLES OF PROGRAMS.—Assistance pursuant to this section should include programs to—

(1) reforest and restore degraded natural areas and reestablish resource management programs;

(2) reestablish veterinary services, local crop research, and agricultural development projects;

(3) provide basic education, including efforts to support the teaching of displaced children, and rebuild schools;

(4) educate young people outside of their countries if conflict within their countries continues;

(5) reconstitute and expand the delivery of primary and maternal health care; and

(6) establish credit, microenterprise, and income generation programs for the poor.

(c) VOLUNTARY RELOCATION AND REPATRIATION.—Assistance pursuant to this section should also be targeted to the voluntary relocation and voluntary repatriation of displaced persons and refugees after peace has been achieved. Assistance pursuant to this Act may not be made available for any costs associated with any program of involuntary or forced resettlement of persons.

(d) DEBT RELIEF; INTERNATIONAL FUND FOR RECONSTRUCTION.—Developmental assistance for the Horn of Africa should be carried out in coordination with long-term strategies for debt relief of countries in the region and with emerging efforts to establish an international fund for reconstruction of developing countries which settle civil wars within their territories.

(e) ASSISTANCE THROUGH PVOS AND INTERNATIONAL ORGANIZATIONS.—Unless a certification has been made with respect to that country under section 8, development assistance and assistance from the Development Fund for Africa for Ethiopia, Somalia, and Sudan shall be provided only through—

(1) United States, international, and indigenous private and voluntary organizations (as the term "private and voluntary organization" is defined in section 496(e)(2) of the Foreign Assistance Act of 1961); or

(2) through international organizations that have demonstrated effectiveness in working in partnership with local

nongovernmental organizations and are committed to the promotion of local grassroots activities on behalf of development and self-reliance in the Horn of Africa (such as the United Nations Children's Fund, the International Fund for Agricultural Development, the United Nations High Commissioner for Refugees, the United Nations Development Program, and the World Food Program).

This subsection does not prohibit the organizations referred to in paragraphs (1) and (2) from working with appropriate ministries or departments of the respective governments of such countries.

(f) WAIVER OF RESTRICTIONS.—Assistance pursuant to this section may be made available to Ethiopia, Somalia, and Sudan notwithstanding any provision of law (other than the provisions of this Act) that would otherwise restrict assistance to such countries.

(g) UNITED STATES VOLUNTARY CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS FOR DEVELOPMENTAL ASSISTANCE FOR THE HORN OF AFRICA.—It should be the policy of the United States to provide increasing voluntary contributions to United Nations agencies (including the United Nations Children's Fund, the International Fund for Agricultural Development, the United Nations High Commissioner for Refugees, the United Nations Development Program, and the World Food Program) for expanded programs of assistance for the Horn of Africa and for refugees from the Horn of Africa who are in neighboring countries.

(h) DEVELOPMENTAL ASSISTANCE AUTHORITIES.—Developmental assistance to carry out this section shall be provided pursuant to the authorities of chapter 1 of part I (relating to development assistance) and chapter 10 of part I (relating to the Development Fund for Africa) of the Foreign Assistance Act of 1961.

SEC. 7.[1] PROHIBITIONS ON SECURITY ASSISTANCE TO ETHIOPIA, SOMALIA, AND SUDAN.

(a) PROHIBITION.—Economic support assistance, foreign military financing assistance, and international military education and training may not be provided for fiscal year 1992 or 1993 for the Government of Ethiopia, the Government of Somalia, or the Government of Sudan unless the President makes the certification described in section 8 with respect to that government.

(b) ASSISTANCE FOR ETHIOPIA; CONDITIONAL WAIVER OF BROOKE-ALEXANDER AMENDMENT.—If the President makes the certification described in section 8 with respect to the Government of Ethiopia, the President may provide economic support assistance, foreign military financing assistance, and international military education and training for Ethiopia for fiscal years 1992 and 1993 notwithstanding section 620(q) of the Foreign Assistance Act of 1961 or any similar provision.

SEC. 8.[1] CERTIFICATION.

The certification required by sections 6(e) and 7 is a certification by the President[3] to the appropriate congressional committees that the government of the specified country—

[3] In a memorandum for the Secretary of State on May 26, 1992, the President determined and certified that the Government of Ethiopia:

"(1) has begun to implement peace agreements and national reconciliation agreements;

Continued

(1) has begun to implement peace agreements, national reconciliation agreements, or both;

(2) has demonstrated a commitment to human rights within the meaning of sections 116 and 502B of the Foreign Assistance Act of 1961;

(3) has manifested a commitment to democracy, has held or established a timetable for free and fair elections, and has agreed to implement the results of those elections; and

(4) in the case of a certification for purposes of section 6(e), has agreed to distribute developmental assistance on the basis of need without regard to political affiliation, geographic location, or the ethnic, tribal, or religious identity of the recipient.

SEC. 9.[1, 4] **REPORTING REQUIREMENT.**

Not later than 180 days after the date of enactment of this Act and each 180 days thereafter, the President shall submit a report to the appropriate congressional committees on the efforts and progress made in carrying out this Act.

SEC. 10.[1] **DEFINITIONS.**

As used in this Act—

(1) the term "appropriate congressional committees" means the Committee on Foreign Affairs[5] and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate;

(2) the term "assistance from the Development Fund for Africa" means assistance under chapter 10 of part I of the Foreign Assistance Act of 1961;

(3) the term "development assistance" means assistance under chapter 1 of part I of the Foreign Assistance Act of 1961;

(4) the term "economic support assistance" means assistance under chapter 4 of part II of the Foreign Assistance Act of 1961;

(5) the term "foreign military financing assistance" means assistance under section 23 of the Arms Export Control Act; and

(6) the term "international military education and training" means assistance under chapter 5 of part II of the Foreign Assistance Act of 1961.

"(2) has demonstrated a commitment to human rights within the meaning of sections 116 and 502B of the Foreign Assistance Act of 1961;

"(3) has manifested a commitment to democracy, has established a timetable for free and fair elections, and has agreed to implement the results of those elections; and

"(4) has agreed to distribute developmental assistance on the basis of need without regard to political affiliation, geographic locations, or the ethnic, tribal, or religious identity of the recipient." (Presidential Determination No. 92–27 of May 26, 1992; 57 F.R. 24925; June 11, 1992).

[4] In a July 19, 1993, memorandum for the Administrator of the Agency for International Development, the President delegated to the Administrator the functions authorized in sec. 9 (Memorandum of July 19, 1993; 58 F.R. 39109; July 21, 1993).

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

(8) Peace Process Support in Liberia

Public Law 102–270 [S.J. Res. 271], 106 Stat. 106, approved April 16, 1992; amended by Public Law 104–99 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996, H.R. 1868, enacted by reference in sec. 301 of Public Law 104–99; H.R. 2880], 110 Stat. 26, approved January 26, 1996, enacted again as Public Law 104–107 [H.R. 1868], 110 Stat. 704, approved February 12. 1996

JOINT RESOLUTION Expressing the sense of the Congress regarding the peace process in Liberia and authorizing limited assistance to support this process.

Whereas the civil war in Liberia, begun in December 1989, has devastated that country, killing an estimated 25,000 civilians and forcing hundreds of thousands of Liberians to flee their homes;

Whereas in an effort to end the fighting, the parties to the Liberian conflict and the leaders of the West African states signed a peace accord in Yamoussoukro, Cote d'Ivoire on October 30, 1991;

Whereas this agreement sets in motion a peace process, including the encampment and disarmament of the fighters and culminating in the holding of free and fair elections;

Whereas despite several difficulties, this peace process continues to proceed largely on track, including the recent opening of roads in Liberia and the initiation of the political campaigns by several parties; and

Whereas the election process outlined in the Yamoussoukro agreement is essential for reestablishing peace, democracy and reconciliation in Liberia, and limited United States assistance could play an important role in promoting this process: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a)[1] the Congress—

(1) strongly supports the peace process for Liberia initiated by the Yamoussoukro peace accord;

(2) urges all parties to abide by the terms of the Yamoussoukro agreement;

(3) commends and congratulates the governments of the Economic Community of West African States (ECOWAS) for their leadership in seeking peace in Liberia; and

(4) extends particularly praise to President Babangida of Nigeria, President Houphouet-Boigny of Cote d'Ivoire, and President Diouf of Senegal for their efforts to resolve this conflict.

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

(b) AUTHORIZATION OF LIMITED ASSISTANCE.—The[2] President is authorized to provide—

(1) nonpartisan election and democracy-building assistance to support democratic institutions in Liberia, and

(2) assistance for the resettlement of refugees, the demobilization and retraining of troops, and the provision of other appropriate assistance:[3] *Provided,* That the President determines and so certifies to the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs[4] and the Committee on Appropriations of the House of Representatives that Liberia has made significant progress toward democratization and that the provision of such assistance will assist that country in making further progress and is otherwise in the national interest of the United States. A separate determination and certification shall be required for each fiscal year in which such assistance is to be provided.

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[2] Sec. 573(a)(1) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104–107; 110 Stat. 749), struck out "Notwithstanding section 620(q) of the Foreign Assistance Act of 1961 or any similar provision, the" and inserted in lieu thereof "The".

Sec. 573(b) of that Act, furthermore, provided the following:

"(b) Funds appropriated by this Act may be made available for assistance for Liberia notwithstanding section 620(q) of the Foreign Assistance Act of 1961 and section 512 of this Act.".

[3] Sec. 573(a)(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104–107; 110 Stat. 749), struck out "to implement the Yamoussoukro peace accord" at this point.

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

(9) African Famine Relief and Recovery Act of 1985

Partial text of Public Law 99–8 [S. 689], 99 Stat. 21, approved April 2, 1985

AN ACT To authorize appropriations for famine relief and recovery in Africa.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "African Famine Relief and Recovery Act of 1985".[1]

SEC. 2.[2] * * *

SEC. 3.[1] **MIGRATION AND REFUGEE ASSISTANCE.**

(a) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts otherwise available for such purpose, there are authorized to be appropriated to the Department of State for "Migration and Refugee Assistance" for the fiscal year 1985, $37,500,000 for assisting refugees and displaced persons in Africa.

(b) USE OF FUNDS.—

(1) PROJECTS FOR IMMEDIATE DEVELOPMENT NEEDS.—Up to 54 percent of the funds authorized to be appropriated by this section may be made available to the United Nations Office of Emergency Operations in Africa for projects such as those proposed at the second International Conference on Assistance to Refugees in Africa (ICARA II) to address the immediate development needs created by refugees and displaced persons in Africa.

(2) EMERGENCY RELIEF AND RECOVERY EFFORTS.—The remaining funds authorized to be appropriated by this section shall be used by the Bureau for Refugee Programs of the Department of State for emergency relief and recovery efforts in Africa.

SEC. 4.[1] **DEPARTMENT OF DEFENSE ASSISTANCE.**

(a) SPECIAL RULE ON REIMBURSEMENT.—If the Department of Defense furnishes goods or services for African supplemental famine assistance activities, the Department of Defense shall be reimbursed for not more than the costs which it incurs in providing those goods or services. These costs do not include military pay and allowances, amortization and depreciation, and fixed facility costs.

(b) DEFINITION OF AFRICAN SUPPLEMENTAL FAMINE ASSISTANCE ACTIVITIES.—For purposes of this section, the term "African supplemental famine assistance activities" means the provision of the following fiscal year 1985 supplemental assistance for Africa:

(1) Famine assistance pursuant to section 2 of this Act.

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[1] 22 U.S.C. 2292 note.

[2] Sec. 2 amended the Foreign Assistance Act of 1961 by adding a new sec. 495K entitled "African Famine Assistance."

(2) Migration and refugee assistance pursuant to section 3 of this Act.

(3) Assistance pursuant to supplemental appropriations for title II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1721–1726).

(4) Assistance with funds appropriated during fiscal year 1985 for the Emergency Refugee and Migration Assistance Fund (22 U.S.C. 2601(c)).

SEC. 5.[1] GENERAL PROVISIONS RELATING TO ASSISTANCE.

(a) COUNTRIES TO BE ASSISTED.—Amounts authorized to be appropriated by this Act shall be available only for assistance in those countries in Africa which have suffered during calendar years 1984 and 1985 from exceptional food supply problems due to drought and other calamities.

(b) "HICKENLOOPER AMENDMENT".—Assistance may be provided with funds authorized to be appropriated by this Act without regard to section 620(e)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(e)(1)).

(c) ENSURING THAT ASSISTANCE REACHES INTENDED RECIPIENTS.—The President shall ensure that adequate procedures have been established so that assistance pursuant to this Act is provided to the famine victims for whom it is intended.

SEC. 6.[1] REPORTS ON AFRICAN FAMINE ASSISTANCE.

(a) REPORT ON UNITED STATES CONTRIBUTION TO MEET EMERGENCY NEEDS.—

(1) REQUIREMENT FOR REPORT.—Not later than June 30, 1985, the President shall report to the Congress with respect to the United States contribution to meet emergency needs, including food needs, for African famine assistance.

(2) INFORMATION TO BE INCLUDED IN REPORT.—The report required by this subsection shall describe—

(A) the emergency needs, including food needs, for African famine assistance that are identified by the President's Interagency Task Force on the African Food Emergency, private and voluntary organizations active in famine relief, the United Nations Office for Emergency Operations in Africa, the United Nations Food and Agriculture Organization, the World Food Program, and such other organizations as the President considers appropriate; and

(B) the projected fiscal year 1985 contribution by the United States Government to meet an appropriate share of those needs referred to in subparagraph (A).

(b) REPORT ON ASSISTANCE PROVIDED PURSUANT TO THIS ACT.—

(1) REQUIREMENT FOR REPORT.—Not later than September 30, 1985, the President shall report to the Congress on the assistance provided pursuant to this Act.

(2) INFORMATION TO BE INCLUDED IN REPORT.—

(A) USE OF FUNDS.—The report pursuant to this subsection shall describe the uses, by the Agency for International Development and by the Department of State, of the funds authorized to be appropriated by this Act, including—

(i) a description of each project or program supported with any of those funds, and the amount allocated to it;

(ii) the identity of each private and voluntary organization or international organization receiving any of those funds, and the amount of funds each received;

(iii) the amount of those funds used for assistance to each country;

(iv) the amount of those funds, if any, which will not have been obligated as of September 30, 1985; and

(v) a list of any projects or programs supported with those funds which are not expected to be completed as of December 31, 1985.

d. Assistance to Latin America [1]

(1) Emergency Supplemental Act, 2000—Plan Colombia

Partial text of Public Law 106–246 [H.R. 4425], 114 Stat. 511, approved July 13, 2000; amended by Public Law 107–115 [Kenneth M. Ludden Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002; H.R. 2506], 115 Stat. 2118, approved January 10, 2002

AN ACT Making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2001, and for other purposes.

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

* * * * * * *

DIVISION B—FISCAL YEAR 2000 SUPPLEMENTAL APPROPRIATIONS

The following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2000, and for other purposes, namely:

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TITLE III—COUNTERNARCOTICS

* * * * * * *

CHAPTER 2

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

DEPARTMENT OF STATE

ASSISTANCE FOR COUNTERNARCOTICS ACTIVITIES

For necessary expenses to carry out section 481 of the Foreign Assistance Act of 1961 to support Central and South America and Caribbean counternarcotics activities, $1,018,500,000, to remain available until expended: *Provided,* That of the funds appropriated under this heading, not less than $110,000,000 shall be made available for assistance for Bolivia, of which not less than $85,000,000 may be made available for alternative development and other economic activities: *Provided further,* That of the funds appropriated under this heading, not less than $20,000,000 may be made available for assistance for Ecuador, of which not less than $8,000,000

[1] See also the Foreign Assistance Act of 1969 (Public Law 91–175), establishing the Inter-American Foundation, in *Legislation on Foreign Relations Through 2004*, vol. I–A.

may be made available for alternative development and other economic activities: *Provided further,* That of the funds appropriated under this heading, not less than $18,000,000 shall be made available for assistance for other countries in South and Central America and the Caribbean which are cooperating with United States counternarcotics objectives: *Provided further,* That of the funds appropriated under this heading not less than $60,000,000 shall be made available for the procurement, refurbishing, and support for UH–1H Huey II helicopters for the Colombian Army: *Provided further,* That of the funds appropriated under this heading, not less than $234,000,000 shall be made available for the procurement of and support for UH–60 Blackhawk helicopters for use by the Colombian Army and the Colombian National Police: *Provided further,* That procurement of UH–60 Blackhawk helicopters from funds made available under this heading shall be managed by the United States Defense Security Cooperation Agency: *Provided further,* That the President shall ensure that if any helicopter procured with funds under this heading is used to aid or abet the operations of an illegal self-defense group or illegal security cooperative, then such helicopter shall be immediately returned to the United States: *Provided further,* That of the amount appropriated under this heading, $2,500,000 shall be available for a program for the demobilization and rehabilitation of child soldiers in Colombia: *Provided further,* That funds made available under this heading shall be in addition to amounts otherwise available for such purposes: *Provided further,* That section 482(b) of the Foreign Assistance Act of 1961 shall not apply to funds appropriated under this heading: *Provided further,* That the Secretary of State, in consultation with the Secretary of Defense and the Administrator of the United States Agency for International Development, shall provide to the Committees on Appropriations not later than 30 days after the date of the enactment of this Act and prior to the initial obligation of any funds appropriated under this heading, a report on the proposed uses of all funds under this heading on a country-by-country basis for each proposed program, project or activity: *Provided further,* That at least 20 days prior to the obligation of funds made available under this heading the Secretary of State shall inform the Committees on Appropriations: *Provided further,* That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further,* That the entire amount provided shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 3201. CONDITIONS ON ASSISTANCE FOR COLOMBIA. (a) CONDITIONS.—

(1) CERTIFICATION REQUIRED.—Assistance provided under this heading may be made available for Colombia in fiscal

years 2000 and 2001 only if the Secretary of State certifies to the appropriate congressional committees prior to the initial obligation of such assistance in each such fiscal year, that—

(A)(i) the President of Colombia has directed in writing that Colombian Armed Forces personnel who are credibly alleged to have committed gross violations of human rights will be brought to justice in Colombia's civilian courts, in accordance with the 1997 ruling of Colombia's Constitutional court regarding civilian court jurisdiction in human rights cases; and

(ii) the Commander General of the Colombian Armed Forces is promptly suspending from duty any Colombian Armed Forces personnel who are credibly alleged to have committed gross violations of human rights or to have aided or abetted paramilitary groups; and

(iii) the Colombian Armed Forces and its Commander General are fully complying with (A)(i) and (ii); and

(B) the Colombian Armed Forces are cooperating fully with civilian authorities in investigating, prosecuting, and punishing in the civilian courts Colombian Armed Forces personnel who are credibly alleged to have committed gross violations of human rights;

(C) the Government of Colombia is vigorously prosecuting in the civilian courts the leaders and members of paramilitary groups and Colombian Armed Forces personnel who are aiding or abetting these groups;

(D) the Government of Colombia has agreed to and is implementing a strategy to eliminate Colombia's total coca and opium poppy production by 2005 through a mix of alternative development programs; manual eradication; aerial spraying of chemical herbicides; tested, environmentally safe mycoherbicides; and the destruction of illicit narcotics laboratories on Colombian territory; and

(E) the Colombian Armed Forces are developing and deploying in their field units a Judge Advocate General Corps to investigate Colombian Armed Forces personnel for misconduct.

(2) CONSULTATIVE PROCESS.—The Secretary of State shall consult with internationally recognized human rights organizations regarding the Government of Colombia's progress in meeting the conditions contained in paragraph (1), prior to issuing the certification required under paragraph (1).

(3) APPLICATION OF EXISTING LAWS.—The same restrictions contained in section 564 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (Public Law 106–113) and section 8098 of the Department of Defense Appropriations Act, 2000 (Public Law 106–79) shall apply to the availability of funds under this heading.

(4) WAIVER.—Assistance may be furnished without regard to this section if the President determines and certifies to the appropriate committees that to do so is in the national security interest.

(b) DEFINITIONS.—In this section:

(1) AIDING OR ABETTING.—The term "aiding or abetting" means direct and indirect support to paramilitary groups, including conspiracy to allow, facilitate, or promote the activities of paramilitary groups.

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

(3) PARAMILITARY GROUPS.—The term "paramilitary groups" means illegal self-defense groups and illegal security cooperatives.

(4) ASSISTANCE.—The term "assistance" means assistance appropriated under this heading for fiscal years 2000 and 2001, and provided under the following provisions of law:

(A) Section 1004 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; relating to counter-drug assistance).

(B) Section 1033 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; relating to counter-drug assistance to Colombia and Peru).

(C) Section 23 of the Arms Export Control Act (Public Law 90–629; relating to credit sales).

(D) Section 481 of the Foreign Assistance Act of 1961 (Public Law 87–195; relating to international narcotics control).

(E) Section 506 of the Foreign Assistance Act of 1961 (Public Law 87–195; relating to emergency drawdown authority).

SEC. 3202. REGIONAL STRATEGY. (a) REPORT REQUIRED.—Not later than 60 days after the date of the enactment of this Act, the President shall submit to the Committee on Foreign Relations and the Committee on Appropriations of the Senate, the Committee on International Relations and the Committee on Appropriations of the House of Representatives, a report on the current United States policy and strategy regarding United States counternarcotics assistance for Colombia and neighboring countries.

(b) REPORT ELEMENTS.—The report required by subsection (a) shall address the following:

(1) The key objectives of the United States' counternarcotics strategy in Colombia and neighboring countries and a detailed description of benchmarks by which to measure progress toward those objectives.

(2) The actions required of the United States to support and achieve these objectives, and a schedule and cost estimates for implementing such actions.

(3) The role of the United States in the efforts of the Government of Colombia to deal with illegal drug production in Colombia.

(4) The role of the United States in the efforts of the Government of Colombia to deal with the insurgency and paramilitary forces in Colombia.

(5) How the strategy with respect to Colombia relates to and affects the United States' strategy in the neighboring countries.

(6) How the strategy with respect to Colombia relates to and affects the United States' strategy for fulfilling global counternarcotics goals.

(7) A strategy and schedule for providing material, technical, and logistical support to Colombia and neighboring countries in order to defend the rule of law and to more effectively impede the cultivation, production, transit, and sale of illicit narcotics.

(8) A schedule for making Forward Operating Locations (FOL) fully operational, including cost estimates and a description of the potential capabilities for each proposed location and an explanation of how the FOL architecture fits into the overall Strategy.

SEC. 3203. REPORT ON EXTRADITION OF NARCOTICS TRAFFICKERS.—(a) Not later than 6 months after the date of the enactment of this title, and every 6 months thereafter, during the period Plan Colombia resources are made available, the Secretary of State shall submit to the Committee on Foreign Relations, the Committee on the Judiciary, and the Committee on Appropriations of the Senate; and the Committee on International Relations, the Committee on the Judiciary, and the Committee on Appropriations of the House of Representatives a report setting forth—

(1) a list of the persons whose extradition has been requested from any country receiving counternarcotics assistance from the United States, indicating those persons who—

(A) have been surrendered to the custody of United States authorities;

(B) have been detained by the authorities and who are being processed for extradition;

(C) have been detained by the authorities and who are not yet being processed for extradition; or

(D) are at large;

(2) a determination whether authorities of each country receiving counternarcotics assistance from the United States are making good faith efforts to ensure the prompt extradition of each of the persons sought by United States authorities; and

(3) an analysis of—

(A) any legal obstacles in the laws of each country receiving counternarcotics assistance from the United States regarding prompt extradition of persons sought by United States authorities; and

(B) the steps taken by authorities of the United States and the authorities of each country receiving counternarcotics assistance from the United States to overcome such obstacles.

SEC. 3204.[2] LIMITATIONS ON SUPPORT FOR PLAN COLOMBIA AND ON THE ASSIGNMENT OF UNITED STATES PERSONNEL IN COLOMBIA. (a) LIMITATION ON SUPPORT FOR PLAN COLOMBIA.—

[2] Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), provided the following:

"ANDEAN COUNTERDRUG INITIATIVE

"For necessary expenses to carry out section 481 of the Foreign Assistance Act of 1961 to support counterdrug activities in the Andean region of South America, $731,000,000, to remain available until September 30, 2007: *Provided,* That in fiscal year 2005, funds available to the Department of State for assistance to the Government of Colombia shall be available to support a unified campaign against narcotics trafficking, against activities by organizations designated as terrorist organizations such as the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), and the United Self-Defense Forces of Colombia (AUC), and to take actions to protect human health and welfare in emergency circumstances, including undertaking rescue operations: *Provided further,* That this authority shall cease to be effective if the Secretary of State has credible evidence that the Colombian Armed Forces are not conducting vigorous operations to restore government authority and respect for human rights in areas under the effective control of paramilitary and guerrilla organizations: *Provided further,* That the President shall ensure that if any helicopter procured with funds under this heading is used to aid or abet the operations of any illegal self-defense group or illegal security cooperative, such helicopter shall be immediately returned to the United States: *Provided further,* That none of the funds appropriated by this Act may be made available to support a Peruvian air interdiction program until the Secretary of State and Director of Central Intelligence certify to the Congress, 30 days before any resumption of United States involvement in a Peruvian air interdiction program, that an air interdiction program that permits the ability of the Peruvian Air Force to shoot down aircraft will include enhanced safeguards and procedures to prevent the occurrence of any incident similar to the April 20, 2001 incident: *Provided further,* That the Secretary of State, in consultation with the Administrator of the United States Agency for International Development, shall provide to the Committees on Appropriations not later than 45 days after the date of the enactment of this Act and prior to the initial obligation of funds appropriated under this heading, a report on the proposed uses of all funds under this heading on a country-by-country basis for each proposed program, project, or activity: *Provided further,* That of the funds appropriated under this heading, not less than $264,600,000 shall be made available for alternative development/institution building, of which $237,000,000 shall be apportioned directly to the United States Agency for International Development, including $125,700,000 for assistance for Colombia: *Provided further,* That with respect to funds apportioned to the United States Agency for International Development under the previous proviso, the responsibility for policy decisions for the use of such funds, including what activities will be funded and the amount of funds that will be provided for each of those activities, shall be the responsibility of the Administrator of the United States Agency for International Development in consultation with the Assistant Secretary of State for International Narcotics and Law Enforcement Affairs: *Provided further,* That of the funds appropriated under this heading, not less than $6,000,000 should be made available for judicial reform programs in Colombia: *Provided further,* That of the funds appropriated under this heading, in addition to funds made available pursuant to the previous proviso, not less than $6,000,000 shall be made available to the United States Agency for International Development for organizations and programs to protect human rights: *Provided further,* That funds made available in this Act for demobilization/reintegration of members of foreign terrorist organizations in Colombia shall be subject to prior consultation with, and the regular notification procedures of, the Committees on Appropriations: *Provided further,* That not more than 20 percent of the funds appropriated by this Act that are used for the procurement of chemicals for aerial coca and poppy fumigation programs may be made available for such programs unless the Secretary of State certifies to the Committees on Appropriations that: (1) the herbicide mixture is being used in accordance with EPA label requirements for comparable use in the United States and with Colombian laws; and (2) the herbicide mixture, in the manner it is being used, does not pose unreasonable risks or adverse effects to humans or the environment: *Provided further,* That such funds may not be made available unless the Secretary of State certifies to the Committees on Appropriations that complaints of harm to health or licit crops caused by such fumigation are evaluated and fair compensation is being paid for meritorious claims: *Provided further,* That such funds may not be made available for such purposes unless programs are being implemented by the United States Agency for International Development, the Government of Colombia, or other organizations, in consultation with local communities, to provide alternative sources of income in areas where security permits for small-acreage growers whose illicit crops are targeted for fumigation: *Provided further,* That of the funds appropriated under this heading, $2,000,000 should be made available through nongovernmental organizations for programs to protect biodiversity and indigenous reserves in Colombia: *Provided further,* That funds appropriated by this Act may be used for aerial fumigation in Colombia's national parks or reserves only if the Secretary of State determines that it is in accordance with Colombian laws and that there are no effective alternatives to reduce drug cultivation in these areas: *Provided further,* That section 482(b) of the Foreign Assistance Act of 1961 shall not apply to funds appropriated under this heading: *Provided further,* That assistance provided with funds appropriated under this heading that is made available notwithstanding section 482(b) of the Foreign Assistance Act of 1961 shall be made available subject to the regular notification procedures of the Committees on Appropriations: *Provided further,* That no United States Armed Forces personnel or United States civilian contractor employed by the United States will participate in any combat operation in connection with assistance made available by this Act for Colombia: *Provided further,* That funds appropriated under this heading that are available for assistance for the Bolivian military and police may be made available for such purposes only if the Bolivian military and police are respecting human rights and cooperating with civilian judicial authorities, and the Bolivian Government is prosecuting and punishing those responsible for violations of

Continued

(1) LIMITATION.—Except as provided in paragraph (2), none of the funds appropriated or otherwise made available by any Act shall be available for support of Plan Colombia unless and until—

(A) the President submits a report to Congress requesting the availability of such funds; and

(B) Congress enacts a joint resolution approving the request of the President under subparagraph (A).

(2) EXCEPTIONS.—The limitation in paragraph (1) does not apply to—

(A) appropriations made by this Act, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001, the Military Construction Appropriations Act, 2001, the Commerce, Justice, State and the Judiciary Appropriations Act, 2001, the Treasury and General Government Appropriations Act, 2001, or the Department of Defense Appropriations Act, 2001, for the purpose of support of Plan Colombia; or

(B) the unobligated balances from any other program used for their originally appropriated purpose to combat drug production and trafficking, foster peace, increase the rule of law, improve human rights, expand economic development, and institute justice reform in the countries covered by Plan Colombia.

(3) WAIVER.—The limitations in subsection (a) may be waived by an Act of Congress.

(b)[3] LIMITATION ON ASSIGNMENT OF UNITED STATES PERSONNEL IN COLOMBIA.—

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human rights: *Provided further,* That of the funds appropriated under this heading, not more than $16,285,000 may be available for administrative expenses of the Department of State, and not more than $7,800,000 may be available, in addition to amounts otherwise available for such purposes, for administrative expenses of the United States Agency for International Development.".

[3] Sec. 1021 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2042) provided the following:

"SEC. 1021. USE OF FUNDS FOR UNIFIED COUNTERDRUG AND COUNTERTERRORISM CAMPAIGN IN COLOMBIA.

"(a) AUTHORITY.—(1) In fiscal years 2005 and 2006, funds available to the Department of Defense to provide assistance to the Government of Colombia may be used by the Secretary of Defense to support a unified campaign by the Government of Colombia against narcotics trafficking and against activities by organizations designated as terrorist organizations, such as the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), and the United Self-Defense Forces of Colombia (AUC).

"(2) The authority to provide assistance for a campaign under this subsection includes authority to take actions to protect human health and welfare in emergency circumstances, including the undertaking of rescue operations.

"(b) APPLICABILITY OF CERTAIN LAWS AND LIMITATIONS.—The use of funds pursuant to the authority in subsection (a) shall be subject to the following:

"(1) Sections 556, 567, and 568 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107–115; 115 Stat. 2160, 2165, and 2166).

"(2) Section 8076 of the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 988).

"(c) NUMERICAL LIMITATION ON ASSIGNMENT OF UNITED STATES PERSONNEL.—Notwithstanding section 3204(b) of the Emergency Supplemental Act, 2000 (Division B of Public Law 106–246; 114 Stat. 575), as amended by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107–115; 115 Stat. 2131), the number of United States personnel assigned to conduct activities in Colombia in connection with support of Plan Colombia under subsection (a) in fiscal years 2005 and 2006 shall be subject to the following limitations:

"(1) The number of United States military personnel assigned for temporary or permanent duty in Colombia in connection with support of Plan Colombia may not exceed 800.

(1) LIMITATION.—Except as provided in paragraph (2), none of the funds appropriated or otherwise made available by this or any other Act (including funds described in subsection (c)) may be available for—

(A) the assignment of any United States military personnel for temporary or permanent duty in Colombia in connection with support of Plan Colombia if that assignment would cause the number of United States military personnel so assigned in Colombia to exceed 400;[4] or

(B) the employment of any United States individual civilian retained as a contractor in Colombia if that employment would cause the total number of United States individual civilian contractors employed in Colombia in support of Plan Colombia who are funded by Federal funds to exceed 400.[5]

(2) EXCEPTION.—The limitation contained in paragraph (1) shall not apply if—

(A) the President submits a report to Congress requesting that the limitation not apply; and

(B) Congress enacts a joint resolution approving the request of the President under subparagraph (A).

(c) WAIVER.—The President may waive the limitation in subsection (b)(1) for a single period of up to 90 days in the event that the Armed Forces of the United States are involved in hostilities or that imminent involvement by the Armed Forces of the United States in hostilities is clearly indicated by the circumstances.

(d) STATUTORY CONSTRUCTION.—Nothing in this section may be construed to affect the authority of the President to carry out any emergency evacuation of United States citizens or any search or rescue operation for United States military personnel or other United States citizens.

"(2) The number of United States individual citizens retained as contractors in Colombia in connection with support of Plan Colombia who are funded by Federal funds may not exceed 600.

"(d) LIMITATION ON PARTICIPATION OF UNITED STATES PERSONNEL.—No United States Armed Forces personnel, United States civilian employees, or United States civilian contractor personnel employed by the United States may participate in any combat operation in connection with assistance using funds pursuant to the authority in subsection (a), except for the purpose of acting in self defense or of rescuing any United States citizen, including any United States Armed Forces personnel, United States civilian employee, or civilian contractor employed by the United States.

"(e) RELATION TO OTHER AUTHORITY.—The authority provided by subsection (a) is in addition to any other authority in law to provide assistance to the Government of Colombia.

"(f) REPORT ON RELATIONSHIPS BETWEEN TERRORIST ORGANIZATIONS IN COLOMBIA AND FOREIGN GOVERNMENTS AND ORGANIZATIONS.—(1) Not later than 60 days after the date of the enactment of this Act, the Secretary of State, in consultation with the Secretary of Defense and the Director of Central Intelligence, shall submit to the congressional defense committees and the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives a report that describes—

"(A) any relationships between foreign governments or organizations and organizations based in Colombia that have been designated as foreign terrorist organizations under United States law, including the provision of any direct or indirect assistance to such organizations; and

"(B) United States policies that are designed to address such relationships.

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

[4] Title II, para. on Andean Counterdrug Initiative, of the Kenneth M. Ludden Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107–115; 115 Stat. 2131) struck out "500" and inserted in lieu thereof "400".

[5] Title II, para. on Andean Counterdrug Initiative, of the Kenneth M. Ludden Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107–115; 115 Stat. 2131) struck out "300" and inserted in lieu thereof "400".

(e) REPORT ON SUPPORT FOR PLAN COLOMBIA.—Not later than June 1, 2001, and not later than June 1 and December 1 of each of the succeeding 4 fiscal years, the President shall submit a report to Congress setting forth any costs (including incremental costs incurred by the Department of Defense) incurred by any department, agency, or other entity of the executive branch of Government during the two previous fiscal quarters in support of Plan Colombia. Each such report shall provide an itemization of expenditures by each such department, agency, or entity.

(f) BIMONTHLY REPORTS.—Beginning within 90 days of the date of the enactment of this Act, and every 60 days thereafter, the President shall submit a report to Congress that shall include the aggregate number, locations, activities, and lengths of assignment for all temporary and permanent United States military personnel and United States individual civilians retained as contractors involved in the antinarcotics campaign in Colombia.

(g) CONGRESSIONAL PRIORITY PROCEDURES.—

(1) JOINT RESOLUTIONS DEFINED.—

(A) For purposes of subsection (a)(1)(B), the term "joint resolution" means only a joint resolution introduced not later than 10 days of the date on which the report of the President under subsection (a)(1)(A) is received by Congress, the matter after the resolving clause of which is as follows: "That Congress approves the request of the President for additional funds for Plan Colombia contained in the report submitted by the President under section 3204(a)(1) of the 2000 Emergency Supplemental Appropriations Act.".

(B) For purposes of subsection (b)(2)(B), the term "joint resolution" means only a joint resolution introduced not later than 10 days of the date on which the report of the President under subsection (a)(1)(A) is received by Congress, the matter after the resolving clause of which is as follows: "That Congress approves the request of the President for exemption from the limitation applicable to the assignment of personnel in Colombia contained in the report submitted by the President under section 3204(b)(2)(B) of the 2000 Emergency Supplemental Appropriations Act.".

(2) PROCEDURES.—Except as provided in subparagraph (B), a joint resolution described in paragraph (1)(A) or (1)(B) shall be considered in a House of Congress in accordance with the procedures applicable to joint resolutions under paragraphs (3) through (8) of section 8066(c) of the Department of Defense Appropriations Act, 1985 (as contained in Public Law 98–473; 98 Stat. 1936).

(h) PLAN COLOMBIA DEFINED.—In this section, the term "Plan Colombia" means the plan of the Government of Colombia instituted by the administration of President Pastrana to combat drug production and trafficking, foster peace, increase the rule of law, improve human rights, expand economic development, and institute justice reform.

SEC. 3205. (a) DENIAL OF VISAS FOR PERSONS CREDIBLY ALLEGED TO HAVE AIDED AND ABETTED COLOMBIAN INSURGENT AND PARAMILITARY GROUPS.—None of the funds appropriated or otherwise made available in this Act for any fiscal year for the Department of State may be used to issue visas to any person who has been credibly alleged to have provided direct or indirect support to the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), or the United Colombian Self Defense organization (AUC), including conspiracy to allow, facilitate, or promote the illegal activities of such groups.

(b) EXEMPTION.—Subsection (a) shall not apply if the Secretary of State finds, on a case-by-case basis, that the entry into the United States of a person who would otherwise be excluded under this section is necessary for medical reasons, or to permit the prosecution of such person in the United States, or the person has cooperated fully with the investigation of crimes committed by individuals associated with the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), or the United Colombian Self Defense organization (AUC).

(c) WAIVER.—The President may waive the limitation in subsection (a) if the President determines that the waiver is in the national interest.

SEC. 3206. LIMITATION ON SUPPLEMENTAL FUNDS FOR POPULATION PLANNING.—Amounts appropriated under this division or under any other provision of law for fiscal year 2000 that are in addition to the funds made available under title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (as enacted into law by section 1000(a)(2) of Public Law 106–113) shall be deemed to have been appropriated under title II of such Act and shall be subject to all limitations and restrictions contained in section 599D of such Act, notwithstanding section 543 of such Act.

SEC. 3207. DECLARATION OF SUPPORT. (a) CERTIFICATION REQUIRED.—Assistance may be made available for Colombia in fiscal years 2000 and 2001 only if the Secretary of State certifies to the appropriate congressional committees, before the initial obligation of such assistance in each such fiscal year, that the United States Government publicly supports the military and political efforts of the Government of Colombia, consistent with human rights conditions in section 3101, necessary to effectively resolve the conflicts with the guerrillas and paramilitaries that threaten the territorial integrity, economic prosperity, and rule of law in Colombia.

(b) DEFINITIONS.—In this section:

(1) APPROPRIATE COMMITTEES OF CONGRESS.—The term "appropriate committees of Congress" means the following:

(A) The Committees on Appropriations and Foreign Relations of the Senate.

(B) The Committees on Appropriations and International Relations of the House of Representatives.

(2) ASSISTANCE.—The term "assistance" means assistance appropriated under this heading for fiscal years 2000 and 2001, and provided under the following provisions of law:

(A) Section 1004 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; relating to counter-drug assistance).

(B) Section 1033 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; relating to counter-drug assistance to Colombia and Peru).

(C) Section 23 of the Arms Export Control Act (Public Law 90–629; relating to credit sales).

(D) Section 481 of the Foreign Assistance Act of 1961 (Public Law 87–195; relating to international narcotics control).

(E) Section 506 of the Foreign Assistance Act of 1961 (Public Law 87–195; relating to emergency drawdown authority).

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This division may be cited as the "Emergency Supplemental Act, 2000".

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(2) Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996

Partial text of Public Law 104–114 [H.R. 927], 110 Stat. 785, approved March 12, 1996; amended by Public Law 105–277 [Foreign Affairs Reform and Restructuring Act of 1998; H.R. 4328], 112 Stat. 2681, approved October 21, 1998

AN ACT to seek international sanctions against the Castro government in Cuba, to plan for support of a transition government leading to a democratically elected government in Cuba, and for other purposes.

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

SECTION 1.[1] SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996".

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

	Page
Sec. 1. Short title; table of contents	227
Sec. 2. Findings	228
Sec. 3. Purposes	231
Sec. 4. Definitions	231
Sec. 5. Severability	234
TITLE I—STRENGTHENING INTERNATIONAL SANCTIONS AGAINST THE CASTRO GOVERNMENT	
Sec. 101. Statement of policy	234
Sec. 102. Enforcement of the economic embargo of Cuba	235
Sec. 103. Prohibition against indirect financing of Cuba	236
Sec. 104. United States opposition to Cuban membership in international financial institutions	236
Sec. 105. United States opposition to termination of the suspension of the Cuban Government from participation in the Organization of American States	237
Sec. 106. Assistance by the independent states of the former Soviet Union for the Cuban Government	237
Sec. 107. Television broadcasting to Cuba	238
Sec. 108. Reports on commerce with, and assistance to, Cuba from other foreign countries	238
Sec. 109. Authorization of support for democratic and human rights groups and international observers	239
Sec. 110. Importation safeguard against certain Cuban products	240
Sec. 111. Withholding of foreign assistance from countries supporting Juragua nuclear plant in Cuba	241
Sec. 112. Reinstitution of family remittances and travel to Cuba	243
Sec. 113. Expulsion of criminals from Cuba	243
Sec. 114. News bureaus in Cuba	243
Sec. 115. Effect of Act on lawful United States Government activities	244
Sec. 116. Condemnation of Cuban attack on American aircraft	244
TITLE II—ASSISTANCE TO A FREE AND INDEPENDENT CUBA	
Sec. 201. Policy toward a transition government and a democratically elected government in Cuba	246

[1] 22 U.S.C. 6021 note.

Sec. 202. Assistance for the Cuban people 247
Sec. 203. Coordination of assistance program; implementation and reports to Congress; reprogramming 250
Sec. 204. Termination of the economic embargo of Cuba 251
Sec. 205. Requirements and factors for determining a transition government 252
Sec. 206. Requirements for determining a democratically elected government 254
Sec. 207. Settlement of outstanding United States claims to confiscated property in Cuba 254

TITLE III—PROTECTION OF PROPERTY RIGHTS OF UNITED STATES NATIONALS

Sec. 301. Findings 255
Sec. 302. Liability for trafficking in confiscated property claimed by United States nationals 256
Sec. 303. Proof of ownership of claims to confiscated property 261
Sec. 304. Exclusivity of Foreign Claims Settlement Commission certification procedure 262
Sec. 305. Limitation of actions 263
Sec. 306. Effective date 263

TITLE IV—EXCLUSION OF CERTAIN ALIENS

Sec. 401. Exclusion from the United States of aliens who have confiscated property of United States nationals or who traffic in such property 264

SEC. 2.[2] FINDINGS.

The Congress makes the following findings:

(1) The economy of Cuba has experienced a decline of at least 60 percent in the last 5 years as a result of—

(A) the end of its subsidization by the former Soviet Union of between 5 billion and 6 billion dollars annually;

(B) 36 years of communist tyranny and economic mismanagement by the Castro government;

(C) the extreme decline in trade between Cuba and the countries of the former Soviet bloc; and

(D) the stated policy of the Russian Government and the countries of the former Soviet bloc to conduct economic relations with Cuba on strictly commercial terms.

(2) At the same time, the welfare and health of the Cuban people have substantially deteriorated as a result of this economic decline and the refusal of the Castro regime to permit free and fair democratic elections in Cuba.

(3) The Castro regime has made it abundantly clear that it will not engage in any substantive political reforms that would lead to democracy, a market economy, or an economic recovery.

(4) The repression of the Cuban people, including a ban on free and fair democratic elections, and continuing violations of fundamental human rights, have isolated the Cuban regime as the only completely nondemocratic government in the Western Hemisphere.

(5) As long as free elections are not held in Cuba, the economic condition of the country and the welfare of the Cuban people will not improve in any significant way.

(6) The totalitarian nature of the Castro regime has deprived the Cuban people of any peaceful means to improve their condition and has led thousands of Cuban citizens to risk or lose

[2] 22 U.S.C. 6021.

their lives in dangerous attempts to escape from Cuba to freedom.

(7) Radio Marti and Television Marti have both been effective vehicles for providing the people of Cuba with news and information and have helped to bolster the morale of the people of Cuba living under tyranny.

(8) The consistent policy of the United States towards Cuba since the beginning of the Castro regime, carried out by both Democratic and Republican administrations, has sought to keep faith with the people of Cuba, and has been effective in sanctioning the totalitarian Castro regime.

(9) The United States has shown a deep commitment, and considers it a moral obligation, to promote and protect human rights and fundamental freedoms as expressed in the Charter of the United Nations and in the Universal Declaration of Human Rights.

(10) The Congress has historically and consistently manifested its solidarity and the solidarity of the American people with the democratic aspirations of the Cuban people.

(11) The Cuban Democracy Act of 1992 calls upon the President to encourage the governments of countries that conduct trade with Cuba to restrict their trade and credit relations with Cuba in a manner consistent with the purposes of that Act.

(12) Amendments to the Foreign Assistance Act of 1961 made by the FREEDOM Support Act require that the President, in providing economic assistance to Russia and the emerging Eurasian democracies, take into account the extent to which they are acting to "terminate support for the communist regime in Cuba, including removal of troops, closing military facilities, and ceasing trade subsidies and economic, nuclear, and other assistance".

(13) The Cuban Government engages in the illegal international narcotics trade and harbors fugitives from justice in the United States.

(14) The Castro government threatens international peace and security by engaging in acts of armed subversion and terrorism such as the training and supplying of groups dedicated to international violence.

(15) The Castro government has utilized from its inception and continues to utilize torture in various forms (including by psychiatry), as well as execution, exile, confiscation, political imprisonment, and other forms of terror and repression, as means of retaining power.

(16) Fidel Castro has defined democratic pluralism as "pluralistic garbage" and continues to make clear that he has no intention of tolerating the democratization of Cuban society.

(17) The Castro government holds innocent Cubans hostage in Cuba by no fault of the hostages themselves solely because relatives have escaped the country.

(18) Although a signatory state to the 1928 Inter-American Convention on Asylum and the International Covenant on Civil and Political Rights (which protects the right to leave one's own country), Cuba nevertheless surrounds embassies in its

capital by armed forces to thwart the right of its citizens to seek asylum and systematically denies that right to the Cuban people, punishing them by imprisonment for seeking to leave the country and killing them for attempting to do so (as demonstrated in the case of the confirmed murder of over 40 men, women, and children who were seeking to leave Cuba on July 13, 1994).

(19) The Castro government continues to utilize blackmail, such as the immigration crisis with which it threatened the United States in the summer of 1994, and other unacceptable and illegal forms of conduct to influence the actions of sovereign states in the Western Hemisphere in violation of the Charter of the Organization of American States and other international agreements and international law.

(20) The United Nations Commission on Human Rights has repeatedly reported on the unacceptable human rights situation in Cuba and has taken the extraordinary step of appointing a Special Rapporteur.

(21) The Cuban Government has consistently refused access to the Special Rapporteur and formally expressed its decision not to "implement so much as one comma" of the United Nations Resolutions appointing the Rapporteur.

(22) The United Nations General Assembly passed Resolution 47–139 on December 18, 1992, Resolution 48–142 on December 20, 1993, and Resolution 49–200 on December 23, 1994, referencing the Special Rapporteur's reports to the United Nations and condemning violations of human rights and fundamental freedoms in Cuba.

(23) Article 39 of Chapter VII of the United Nations Charter provides that the United Nations Security Council "shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken . . ., to maintain or restore international peace and security.".

(24) The United Nations has determined that massive and systematic violations of human rights may constitute a "threat to peace" under Article 39 and has imposed sanctions due to such violations of human rights in the cases of Rhodesia, South Africa, Iraq, and the former Yugoslavia.

(25) In the case of Haiti, a neighbor of Cuba not as close to the United States as Cuba, the United States led an effort to obtain and did obtain a United Nations Security Council embargo and blockade against that country due to the existence of a military dictatorship in power less than 3 years.

(26) United Nations Security Council Resolution 940 of July 31, 1994, subsequently authorized the use of "all necessary means" to restore the "democratically elected government of Haiti", and the democratically elected government of Haiti was restored to power on October 15, 1994.

(27) The Cuban people deserve to be assisted in a decisive manner to end the tyranny that has oppressed them for 36 years, and the continued failure to do so constitutes ethically improper conduct by the international community.

(28) For the past 36 years, the Cuban Government has posed and continues to pose a national security threat to the United States.

SEC. 3.[3] PURPOSES.

The purposes of this Act are—

(1) to assist the Cuban people in regaining their freedom and prosperity, as well as in joining the community of democratic countries that are flourishing in the Western Hemisphere;

(2) to strengthen international sanctions against the Castro government;

(3) to provide for the continued national security of the United States in the face of continuing threats from the Castro government of terrorism, theft of property from United States nationals by the Castro government, and the political manipulation by the Castro government of the desire of Cubans to escape that results in mass migration to the United States;

(4) to encourage the holding of free and fair democratic elections in Cuba, conducted under the supervision of internationally recognized observers;

(5) to provide a policy framework for United States support to the Cuban people in response to the formation of a transition government or a democratically elected government in Cuba; and

(6) to protect United States nationals against confiscatory takings and the wrongful trafficking in property confiscated by the Castro regime.

SEC. 4.[4] DEFINITIONS.

As used in this Act, the following terms have the following meanings:

(1) AGENCY OR INSTRUMENTALITY OF A FOREIGN STATE.—The term "agency or instrumentality of a foreign state" has the meaning given that term in section 1603(b) of title 28, United States Code.

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

(3) COMMERCIAL ACTIVITY.—The term "commercial activity" has the meaning given that term in section 1603(d) of title 28, United States Code.

(4) CONFISCATED.—As used in titles I and III, the term "confiscated" refers to—

(A) the nationalization, expropriation, or other seizure by the Cuban Government of ownership or control of property, on or after January 1, 1959—

(i) without the property having been returned or adequate and effective compensation provided; or

[3] 22 U.S.C. 6022.
[4] 22 U.S.C. 6023.

(ii) without the claim to the property having been settled pursuant to an international claims settlement agreement or other mutually accepted settlement procedure; and

(B) the repudiation by the Cuban Government of, the default by the Cuban Government on, or the failure of the Cuban Government to pay, on or after January 1, 1959—

(i) a debt of any enterprise which has been nationalized, expropriated, or otherwise taken by the Cuban Government;

(ii) a debt which is a charge on property nationalized, expropriated, or otherwise taken by the Cuban Government; or

(iii) a debt which was incurred by the Cuban Government in satisfaction or settlement of a confiscated property claim.

(5) CUBAN GOVERNMENT.—(A) The term "Cuban Government" includes the government of any political subdivision of Cuba, and any agency or instrumentality of the Government of Cuba.

(B) For purposes of subparagraph (A), the term "agency or instrumentality of the Government of Cuba" means an agency or instrumentality of a foreign state as defined in section 1603(b) of title 28, United States Code, with each reference in such section to "a foreign state" deemed to be a reference to "Cuba".

(6) DEMOCRATICALLY ELECTED GOVERNMENT IN CUBA.—The term "democratically elected government in Cuba" means a government determined by the President to have met the requirements of section 206.

(7) ECONOMIC EMBARGO OF CUBA.—The term "economic embargo of Cuba" refers to—

(A) the economic embargo (including all restrictions on trade or transactions with, and travel to or from, Cuba, and all restrictions on transactions in property in which Cuba or nationals of Cuba have an interest) that was imposed against Cuba pursuant to section 620(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a)), section 5(b) of the Trading with the Enemy Act (50 U.S.C. App. 5(b)), the Cuban Democracy Act of 1992 (22 U.S.C. 6001 and following), or any other provision of law; and

(B) the restrictions imposed by section 902(c) of the Food Security Act of 1985.

(8) FOREIGN NATIONAL.—The term "foreign national" means—

(A) an alien; or

(B) any corporation, trust, partnership, or other juridical entity not organized under the laws of the United States, or of any State, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(9) KNOWINGLY.—The term "knowingly" means with knowledge or having reason to know.

(10) OFFICIAL OF THE CUBAN GOVERNMENT OR THE RULING POLITICAL PARTY IN CUBA.—The term "official of the Cuban

Government or the ruling political party in Cuba" refers to any member of the Council of Ministers, Council of State, central committee of the Communist Party of Cuba, or the Politburo of Cuba, or their equivalents.

(11) PERSON.—The term "person" means any person or entity, including any agency or instrumentality of a foreign state.

(12) PROPERTY.—(A) The term "property" means any property (including patents, copyrights, trademarks, and any other form of intellectual property), whether real, personal, or mixed, and any present, future, or contingent right, security, or other interest therein, including any leasehold interest.

(B) For purposes of title III of this Act, the term "property" does not include real property used for residential purposes unless, as of the date of the enactment of this Act—

(i) the claim to the property is held by a United States national and the claim has been certified under title V of the International Claims Settlement Act of 1949; or

(ii) the property is occupied by an official of the Cuban Government or the ruling political party in Cuba.

(13) TRAFFICS.—(A) As used in title III, and except as provided in subparagraph (B), a person "traffics" in confiscated property if that person knowingly and intentionally—

(i) sells, transfers, distributes, dispenses, brokers, manages, or otherwise disposes of confiscated property, or purchases, leases, receives, possesses, obtains control of, manages, uses, or otherwise acquires or holds an interest in confiscated property,

(ii) engages in a commercial activity using or otherwise benefiting from confiscated property, or (iii) causes, directs, participates in, or profits from, trafficking (as described in clause (i) or (ii)) by another person, or otherwise engages in trafficking (as described in clause (i) or (ii)) through another person, without the authorization of any United States national who holds a claim to the property.

(B) The term "traffics" does not include—

(i) the delivery of international telecommunication signals to Cuba;

(ii) the trading or holding of securities publicly traded or held, unless the trading is with or by a person determined by the Secretary of the Treasury to be a specially designated national;

(iii) transactions and uses of property incident to lawful travel to Cuba, to the extent that such transactions and uses of property are necessary to the conduct of such travel; or

(iv) transactions and uses of property by a person who is both a citizen of Cuba and a resident of Cuba, and who is not an official of the Cuban Government or the ruling political party in Cuba.

(14) TRANSITION GOVERNMENT IN CUBA.—The term "transition government in Cuba" means a government that the President determines is a transition government consistent with the requirements and factors set forth in section 205.

(15) UNITED STATES NATIONAL.—The term "United States national" means—

(A) any United States citizen; or

(B) any other legal entity which is organized under the laws of the United States, or of any State, the District of Columbia, or any commonwealth, territory, or possession of the United States, and which has its principal place of business in the United States.

SEC. 5.[5] SEVERABILITY.

If any provision of this Act or the amendments made by this Act or the application thereof to any person or circumstance is held invalid, the remainder of this Act, the amendments made by this Act, or the application thereof to other persons not similarly situated or to other circumstances shall not be affected by such invalidation.

TITLE I—STRENGTHENING INTERNATIONAL SANCTIONS AGAINST THE CASTRO GOVERNMENT

SEC. 101.[6] STATEMENT OF POLICY.

It is the sense of the Congress that—

(1) the acts of the Castro government, including its massive, systematic, and extraordinary violations of human rights, are a threat to international peace;

(2) the President should advocate, and should instruct the United States Permanent Representative to the United Nations to propose and seek within the Security Council, a mandatory international embargo against the totalitarian Cuban Government pursuant to chapter VII of the Charter of the United Nations, employing efforts similar to consultations conducted by United States representatives with respect to Haiti;

(3) any resumption of efforts by any independent state of the former Soviet Union to make operational any nuclear facilities in Cuba, and any continuation of intelligence activities by such a state from Cuba that are targeted at the United States and its citizens will have a detrimental impact on United States assistance to such state; and

(4) in view of the threat to the national security posed by the operation of any nuclear facility, and the Castro government's continuing blackmail to unleash another wave of Cuban refugees fleeing from Castro's oppression, most of whom find their way to United States shores, further depleting limited humanitarian and other resources of the United States, the President should do all in his power to make it clear to the Cuban Government that—

(A) the completion and operation of any nuclear power facility, or

(B) any further political manipulation of the desire of Cubans to escape that results in mass migration to the United States,

will be considered an act of aggression which will be met with an appropriate response in order to maintain the security of

[5] 22 U.S.C. 6024.
[6] 22 U.S.C. 6031.

the national borders of the United States and the health and safety of the American people.

SEC. 102.[7] ENFORCEMENT OF THE ECONOMIC EMBARGO OF CUBA.

(a) POLICY.—

(1) RESTRICTIONS BY OTHER COUNTRIES.—The Congress hereby reaffirms section 1704(a) of the Cuban Democracy Act of 1992, which states that the President should encourage foreign countries to restrict trade and credit relations with Cuba in a manner consistent with the purposes of that Act.

(2) SANCTIONS ON OTHER COUNTRIES.—The Congress further urges the President to take immediate steps to apply the sanctions described in section 1704(b)(1) of that Act against countries assisting Cuba.

(b) DIPLOMATIC EFFORTS.—The Secretary of State should ensure that United States diplomatic personnel abroad understand and, in their contacts with foreign officials, are communicating the reasons for the United States economic embargo of Cuba, and are urging foreign governments to cooperate more effectively with the embargo.

(c) EXISTING REGULATIONS.—The President shall instruct the Secretary of the Treasury and the Attorney General to enforce fully the Cuban Assets Control Regulations set forth in part 515 of title 31, Code of Federal Regulations.

(d)[8] TRADING WITH THE ENEMY ACT.—

(1) CIVIL PENALTIES.—Subsection (b) of section 16 of the Trading with the Enemy Act (50 U.S.C. App. 16(b)), as added by Public Law 102–484, is amended to read as follows: * * *

(2) CONFORMING AMENDMENT; CRIMINAL FORFEITURE.—Section 16 of the Trading with the Enemy Act is further amended by striking subsection (b), as added by Public Law 102–393.

(3) CLERICAL AMENDMENTS.—Section 16 of the Trading with the Enemy Act is further amended—* * *

(e) DENIAL OF VISAS TO CERTAIN CUBAN NATIONALS.—It is the sense of the Congress that the President should instruct the Secretary of State and the Attorney General to enforce fully existing regulations to deny visas to Cuban nationals considered by the Secretary of State to be officers or employees of the Cuban Government or of the Communist Party of Cuba.

(f)[9] COVERAGE OF DEBT-FOR-EQUITY SWAPS BY ECONOMIC EMBARGO OF CUBA.—Section 1704(b)(2) of the Cuban Democracy Act of 1992 (22 U.S.C. 6003(b)(2)) is amended—* * *

(g) TELECOMMUNICATIONS SERVICES.—Section 1705(e) of the Cuban Democracy Act of 1992 (22 U.S.C. 6004(e)) is amended by adding at the end the following new paragraphs: * * *

(h) CODIFICATION OF ECONOMIC EMBARGO.—The economic embargo of Cuba, as in effect on March 1, 1996, including all restrictions under part 515 of title 31, Code of Federal Regulations, shall be in effect upon the enactment of this Act, and shall remain in effect, subject to section 204 of this Act.

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[7] 22 U.S.C. 6032.

[8] For amended section of Trading with the Enemy Act, see *Legislation on Foreign Relations Through 2004*, vol. III.

[9] For the Cuban Democracy Act of 1992, as amended, see *Legislation on Foreign Relations Through 2004*, vol. III.

SEC. 103.[10] PROHIBITION AGAINST INDIRECT FINANCING OF CUBA.

(a) PROHIBITION.—Notwithstanding any other provision of law, no loan, credit, or other financing may be extended knowingly by a United States national, a permanent resident alien, or a United States agency to any person for the purpose of financing transactions involving any confiscated property the claim to which is owned by a United States national as of the date of the enactment of this Act, except for financing by the United States national owning such claim for a transaction permitted under United States law.

(b) SUSPENSION AND TERMINATION OF PROHIBITION.—

(1) SUSPENSION.—The President is authorized to suspend the prohibition contained in subsection (a) upon a determination made under section 203(c)(1) that a transition government in Cuba is in power.

(2) TERMINATION.—The prohibition contained in subsection (a) shall cease to apply on the date on which the economic embargo of Cuba terminates as provided in section 204.

(c) PENALTIES.—Violations of subsection (a) shall be punishable by such civil penalties as are applicable to violations of the Cuban Assets Control Regulations set forth in part 515 of title 31, Code of Federal Regulations.

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

(1) the term "permanent resident alien" means an alien lawfully admitted for permanent residence into the United States; and

(2) the term "United States agency" has the meaning given the term "agency" in section 551(1) of title 5, United States Code.

SEC. 104.[11] UNITED STATES OPPOSITION TO CUBAN MEMBERSHIP IN INTERNATIONAL FINANCIAL INSTITUTIONS.

(a) CONTINUED OPPOSITION TO CUBAN MEMBERSHIP IN INTERNATIONAL FINANCIAL INSTITUTIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary of the Treasury shall instruct the United States executive director of each international financial institution to use the voice and vote of the United States to oppose the admission of Cuba as a member of such institution until the President submits a determination under section 203(c)(3) that a democratically elected government in Cuba is in power.

(2) TRANSITION GOVERNMENT.—Once the President submits a determination under section 203(c)(1) that a transition government in Cuba is in power—

(A) the President is encouraged to take steps to support the processing of Cuba's application for membership in any international financial institution, subject to the membership taking effect after a democratically elected government in Cuba is in power, and

[10] 22 U.S.C. 6033.
[11] 22 U.S.C. 6034.

(B) the Secretary of the Treasury is authorized to instruct the United States executive director of each international financial institution to support loans or other assistance to Cuba only to the extent that such loans or assistance contribute to a stable foundation for a democratically elected government in Cuba.

(b) REDUCTION IN UNITED STATES PAYMENTS TO INTERNATIONAL FINANCIAL INSTITUTIONS.—If any international financial institution approves a loan or other assistance to the Cuban Government over the opposition of the United States, then the Secretary of the Treasury shall withhold from payment to such institution an amount equal to the amount of the loan or other assistance, with respect to either of the following types of payment:

(1) The paid-in portion of the increase in capital stock of the institution.

(2) The callable portion of the increase in capital stock of the institution.

(c) DEFINITION.—For purposes of this section, the term "international financial institution" means the International Monetary Fund, the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Multilateral Investment Guaranty Agency, and the Inter-American Development Bank.

SEC. 105.[12] UNITED STATES OPPOSITION TO TERMINATION OF THE SUSPENSION OF THE CUBAN GOVERNMENT FROM PARTICIPATION IN THE ORGANIZATION OF AMERICAN STATES.

The President should instruct the United States Permanent Representative to the Organization of American States to oppose and vote against any termination of the suspension of the Cuban Government from participation in the Organization until the President determines under section 203(c)(3) that a democratically elected government in Cuba is in power.

SEC. 106.[13] ASSISTANCE BY THE INDEPENDENT STATES OF THE FORMER SOVIET UNION FOR THE CUBAN GOVERNMENT.

(a) REPORTING REQUIREMENT.—Not later than 90 days after the date of the enactment of this Act, the President shall submit to the appropriate congressional committees a report detailing progress toward the withdrawal of personnel of any independent state of the former Soviet Union (within the meaning of section 3 of the FREEDOM Support Act (22 U.S.C. 5801)), including advisers, technicians, and military personnel, from the Cienfuegos nuclear facility in Cuba.

(b) CRITERIA FOR ASSISTANCE.—Section 498A(a)(11) of the Foreign Assistance Act of 1961 (22 U.S.C. 2295a(a)(11)) is amended * * *

(c) INELIGIBILITY FOR ASSISTANCE.—

(1) IN GENERAL.—Section 498A(b) of that Act (22 U.S.C. 2295a(b)) is amended—* * *

(2) DEFINITION—Subsection (k) of section 498B of that Act (22 U.S.C. 2295b(k)) is amended * * *

[12] 22 U.S.C. 6035.

[13] 22 U.S.C. 6036. For the Foreign Assistance Act of 1961, as amended, see *Legislation on Foreign Relations Through 2004*, vol. I–A.

(3) EXCEPTION.—Section 498A(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2295A(c)) is amended by inserting after paragraph (3) the following new paragraph: * * *

(d) FACILITIES AT LOURDES, CUBA.—

(1) DISAPPROVAL OF CREDITS.—The Congress expresses its strong disapproval of the extension by Russia of credits equivalent to $200,000,000 in support of the intelligence facility at Lourdes, Cuba, in November 1994.

(2) REDUCTION IN ASSISTANCE.—Section 498A of the Foreign Assistance Act of 1961 (22 U.S.C. 2295a) is amended by adding at the end the following new subsection: * * *

SEC. 107.[14] TELEVISION BROADCASTING TO CUBA.

(a) CONVERSION TO UHF.—The Director of the International Broadcasting Bureau[15] shall implement a conversion of television broadcasting to Cuba under the Television Marti Service to ultra high frequency (UHF) broadcasting.

(b) PERIODIC REPORTS.—Not later than 45 days after the date of the enactment of this Act, and every three months thereafter until the conversion described in subsection (a) is fully implemented, the Director of the International Broadcasting Bureau[15] shall submit a report to the appropriate congressional committees on the progress made in carrying out subsection (a).

(c) TERMINATION OF BROADCASTING AUTHORITIES.—Upon transmittal of a determination under section 203(c)(3), the Television Broadcasting to Cuba Act (22 U.S.C. 1465aa and following) and the Radio Broadcasting to Cuba Act (22 U.S.C. 1465 and following) are repealed.

SEC. 108.[16] REPORTS ON COMMERCE WITH, AND ASSISTANCE TO, CUBA FROM OTHER FOREIGN COUNTRIES.

(a) REPORTS REQUIRED.—Not later than 90 days after the date of the enactment of this Act, and by January 1 of each year thereafter until the President submits a determination under section 203(c)(1), the President shall submit a report to the appropriate congressional committees on commerce with, and assistance to, Cuba from other foreign countries during the preceding 12-month period.

(b) CONTENTS OF REPORTS.—Each report required by subsection (a) shall, for the period covered by the report, contain the following, to the extent such information is available:

(1) A description of all bilateral assistance provided to Cuba by other foreign countries, including humanitarian assistance.

(2) A description of Cuba's commerce with foreign countries, including an identification of Cuba's trading partners and the extent of such trade.

(3) A description of the joint ventures completed, or under consideration, by foreign nationals and business firms involving facilities in Cuba, including an identification of the location of the facilities involved and a description of the terms of

[14] 22 U.S.C. 6037. For other legislation relating to broadcasting to Cuba, see *Legislation on Foreign Relations Through 2004*, vol. II.

[15] Sec. 1335(r) of the Foreign Affairs Reform and Restructuring Act of 1998 (Division G of Public Law 105–277; 112 Stat. 2681–790) struck out "Director of the United States Information Agency" and inserted in lieu thereof "Director of the International Broadcasting Bureau".

[16] 22 U.S.C. 6038.

agreement of the joint ventures and the names of the parties that are involved.

(4) A determination as to whether or not any of the facilities described in paragraph (3) is the subject of a claim against Cuba by a United States national.

(5) A determination of the amount of debt of the Cuban Government that is owed to each foreign country, including—

(A) the amount of debt exchanged, forgiven, or reduced under the terms of each investment or operation in Cuba involving foreign nationals; and

(B) the amount of debt owed the foreign country that has been exchanged, forgiven, or reduced in return for a grant by the Cuban Government of an equity interest in a property, investment, or operation of the Cuban Government or of a Cuban national.

(6) A description of the steps taken to assure that raw materials and semifinished or finished goods produced by facilities in Cuba involving foreign nationals do not enter the United States market, either directly or through third countries or parties.

(7) An identification of countries that purchase, or have purchased, arms or military supplies from Cuba or that otherwise have entered into agreements with Cuba that have a military application, including—

(A) a description of the military supplies, equipment, or other material sold, bartered, or exchanged between Cuba and such countries,

(B) a listing of the goods, services, credits, or other consideration received by Cuba in exchange for military supplies, equipment, or material, and

(C) the terms or conditions of any such agreement.

SEC. 109.[17] AUTHORIZATION OF SUPPORT FOR DEMOCRATIC AND HUMAN RIGHTS GROUPS AND INTERNATIONAL OBSERVERS.

(a) AUTHORIZATION.—Notwithstanding any other provision of law (including section 102 of this Act), except for section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1) and comparable notification requirements contained in any Act making appropriations for foreign operations, export financing, and related programs, the President is authorized to furnish assistance and provide other support for individuals and independent nongovernmental organizations to support democracy-building efforts for Cuba, including the following:

(1) Published and informational matter, such as books, videos, and cassettes, on transitions to democracy, human rights, and market economies, to be made available to independent democratic groups in Cuba.

(2) Humanitarian assistance to victims of political repression, and their families.

(3) Support for democratic and human rights groups in Cuba.

(4) Support for visits and permanent deployment of independent international human rights monitors in Cuba.

[17] 22 U.S.C. 6039.

(b) OAS EMERGENCY FUND.—

(1) FOR SUPPORT OF HUMAN RIGHTS AND ELECTIONS.—The President shall take the necessary steps to encourage the Organization of American States to create a special emergency fund for the explicit purpose of deploying human rights observers, election support, and election observation in Cuba.

(2) ACTION OF OTHER MEMBER STATES.—The President should instruct the United States Permanent Representative to the Organization of American States to encourage other member states of the Organization to join in calling for the Cuban Government to allow the immediate deployment of independent human rights monitors of the Organization throughout Cuba and on-site visits to Cuba by the Inter-American Commission on Human Rights.

(3) VOLUNTARY CONTRIBUTIONS FOR FUND.—Notwithstanding section 307 of the Foreign Assistance Act of 1961 (22 U.S.C. 2227) or any other provision of law limiting the United States proportionate share of assistance to Cuba by any international organization, the President should provide not less than $5,000,000 of the voluntary contributions of the United States to the Organization of American States solely for the purposes of the special fund referred to in paragraph (1).

(c) DENIAL OF FUNDS TO THE CUBAN GOVERNMENT.—In implementing this section, the President shall take all necessary steps to ensure that no funds or other assistance is provided to the Cuban Government.

SEC. 110.[18] IMPORTATION SAFEGUARD AGAINST CERTAIN CUBAN PRODUCTS.

(a) PROHIBITION ON IMPORT OF AND DEALINGS IN CUBAN PRODUCTS.—The Congress notes that section 515.204 of title 31, Code of Federal Regulations, prohibits the entry of, and dealings outside the United States in, merchandise that—

(1) is of Cuban origin;

(2) is or has been located in or transported from or through Cuba; or

(3) is made or derived in whole or in part of any article which is the growth, produce, or manufacture of Cuba.

(b) EFFECT OF NAFTA.—The Congress notes that United States accession to the North American Free Trade Agreement does not modify or alter the United States sanctions against Cuba. The statement of administrative action accompanying that trade agreement specifically states the following:

(1) "The NAFTA rules of origin will not in any way diminish the Cuban sanctions program. . . . Nothing in the NAFTA would operate to override this prohibition.".

(2) "Article 309(3) [of the NAFTA] permits the United States to ensure that Cuban products or goods made from Cuban materials are not imported into the United States from Mexico or Canada and that United States products are not exported to Cuba through those countries.".

(c) RESTRICTION OF SUGAR IMPORTS.—The Congress notes that section 902(c) of the Food Security Act of 1985 (Public Law 99–198)

[18] 22 U.S.C. 6040.

requires the President not to allocate any of the sugar import quota to a country that is a net importer of sugar unless appropriate officials of that country verify to the President that the country does not import for reexport to the United States any sugar produced in Cuba.

(d) ASSURANCE REGARDING SUGAR PRODUCTS.—Protection of essential security interests of the United States requires assurances that sugar products that are entered, or withdrawn from warehouse for consumption, into the customs territory of the United States are not products of Cuba.

SEC. 111.[19] WITHHOLDING OF FOREIGN ASSISTANCE FROM COUNTRIES SUPPORTING JURAGUA NUCLEAR PLANT IN CUBA.

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

(1) President Clinton stated in April 1993 that the United States opposed the construction of the Juragua nuclear power plant because of the concerns of the United States about Cuba's ability to ensure the safe operation of the facility and because of Cuba's refusal to sign the Nuclear Non-Proliferation Treaty or ratify the Treaty of Tlatelolco.

(2) Cuba has not signed the Treaty on the Non-Proliferation of Nuclear Weapons or ratified the Treaty of Tlatelolco, the latter of which establishes Latin America and the Caribbean as a nuclear weapons-free zone.

(3) The State Department, the Nuclear Regulatory Commission, and the Department of Energy have expressed concerns about the construction and operation of Cuba's nuclear reactors.

(4) In a September 1992 report to the Congress, the General Accounting Office[20] outlined concerns among nuclear energy experts about deficiencies in the nuclear plant project in Juragua, near Cienfuegos, Cuba, including—

(A) a lack in Cuba of a nuclear regulatory structure;

(B) the absence in Cuba of an adequate infrastructure to ensure the plant's safe operation and requisite maintenance;

(C) the inadequacy of training of plant operators;

(D) reports by a former technician from Cuba who, by examining with x-rays weld sites believed to be part of the auxiliary plumbing system for the plant, found that 10 to 15 percent of those sites were defective;

(E) since September 5, 1992, when construction on the plant was halted, the prolonged exposure to the elements, including corrosive salt water vapor, of the primary reactor components; and

(F) the possible inadequacy of the upper portion of the reactors' dome retention capability to withstand only 7 pounds of pressure per square inch, given that normal atmospheric pressure is 32 pounds per square inch and

[19] 22 U.S.C. 6041.

[20] Sec. 8 of the GAO Human Capital Reform Act of 2004 (Public Law 108–271; 118 Stat. 814) redesignated the "General Accounting Office" as the "Government Accountability Office" and provided that "Any reference to the General Accounting Office in any law, rule, regulations, certificate, directive, instruction, or other official paper in force on the date of enactment of this Act shall be considered to refer and apply to the Government Accountability Office.".

United States reactors are designed to accommodate pressures of 50 pounds per square inch.

(5) The United States Geological Survey claims that it had difficulty determining answers to specific questions regarding earthquake activity in the area near Cienfuegos because the Cuban Government was not forthcoming with information.

(6) The Geological Survey has indicated that the Caribbean plate, a geological formation near the south coast of Cuba, may pose seismic risks to Cuba and the site of the power plant, and may produce large to moderate earthquakes.

(7) On May 25, 1992, the Caribbean plate produced an earthquake numbering 7.0 on the Richter scale.

(8) According to a study by the National Oceanic and Atmospheric Administration, summer winds could carry radioactive pollutants from a nuclear accident at the power plant throughout all of Florida and parts of the States on the coast of the Gulf of Mexico as far as Texas, and northern winds could carry the pollutants as far northeast as Virginia and Washington, D.C.

(9) The Cuban Government, under dictator Fidel Castro, in 1962 advocated the Soviets' launching of nuclear missiles to the United States, which represented a direct and dangerous provocation of the United States and brought the world to the brink of a nuclear conflict.

(10) Fidel Castro over the years has consistently issued threats against the United States Government, most recently that he would unleash another perilous mass migration from Cuba upon the enactment of this Act.

(11) Despite the various concerns about the plant's safety and operational problems, a feasibility study is being conducted that would establish a support group to include Russia, Cuba, and third countries with the objective of completing and operating the plant.

(b) WITHHOLDING OF FOREIGN ASSISTANCE.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the President shall withhold from assistance allocated, on or after the date of the enactment of this Act, for any country an amount equal to the sum of assistance and credits, if any, provided on or after such date of enactment by that country or any entity in that country in support of the completion of the Cuban nuclear facility at Juragua, near Cienfuegos, Cuba.

(2) EXCEPTIONS.—The requirement of paragraph (1) to withhold assistance shall not apply with respect to—

(A) assistance to meet urgent humanitarian needs, including disaster and refugee relief;

(B) democratic political reform or rule of law activities;

(C) the creation of private sector or nongovernmental organizations that are independent of government control;

(D) the development of a free market economic system;

(E) assistance for the purposes described in the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103–160); or

(F) assistance under the secondary school exchange program administered by the United States Information Agency.

(3) DEFINITION.—As used in paragraph (1), the term "assistance" means assistance under the Foreign Assistance Act of 1961, credits, sales, guarantees of extensions of credit, and other assistance under the Arms Export Control Act, assistance under titles I and III of the Agricultural Trade Development and Assistance Act of 1954, assistance under the FREEDOM Support Act, and any other program of assistance or credits provided by the United States to other countries under other provisions of law.

SEC. 112.[21] REINSTITUTION OF FAMILY REMITTANCES AND TRAVEL TO CUBA.

It is the sense of the Congress that the President should—

(1)(A) before considering the reinstitution of general licenses for family remittances to Cuba, insist that, prior to such reinstitution, the Cuban Government permit the unfettered operation of small businesses fully empowered with the right to hire others to whom they may pay wages and to buy materials necessary in the operation of the businesses, and with such other authority and freedom as are required to foster the operation of small businesses throughout Cuba; and

(B) if licenses described in subparagraph (A) are reinstituted, require a specific license for remittances described in subparagraph (A) in amounts of more than $500; and

(2) before considering the reinstitution of general licenses for travel to Cuba by individuals resident in the United States who are family members of Cuban nationals who are resident in Cuba, insist on such actions by the Cuban Government as abrogation of the sanction for departure from Cuba by refugees, release of political prisoners, recognition of the right of association, and other fundamental freedoms.

SEC. 113.[22] EXPULSION OF CRIMINALS FROM CUBA.

The President shall instruct all United States Government officials who engage in official contacts with the Cuban Government to raise on a regular basis the extradition of or rendering to the United States all persons residing in Cuba who are sought by the United States Department of Justice for crimes committed in the United States.

SEC. 114.[23] NEWS BUREAUS IN CUBA.

(a) ESTABLISHMENT OF NEWS BUREAUS.—The President is authorized to establish and implement an exchange of news bureaus between the United States and Cuba, if the exchange meets the following conditions:

(1) The exchange is fully reciprocal.

(2) The Cuban Government agrees not to interfere with the establishment of news bureaus or with the movement in Cuba of journalists of any United States-based news organizations, including Radio Marti and Television Marti.

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[21] 22 U.S.C. 6042.
[22] 22 U.S.C. 6043.
[23] 22 U.S.C. 6044.

(3) The Cuban Government agrees not to interfere with decisions of United States-based news organizations with respect to individuals assigned to work as journalists in their news bureaus in Cuba.

(4) The Department of the Treasury is able to ensure that only accredited journalists regularly employed with a news gathering organization travel to Cuba under this subsection.

(5) The Cuban Government agrees not to interfere with the transmission of telecommunications signals of news bureaus or with the distribution within Cuba of publications of any United States-based news organization that has a news bureau in Cuba.

(b) ASSURANCE AGAINST ESPIONAGE.—In implementing this section, the President shall take all necessary steps to ensure the safety and security of the United States against espionage by Cuban journalists it believes to be working for the intelligence agencies of the Cuban Government.

(c) FULLY RECIPROCAL.—As used in subsection (a)(1), the term "fully reciprocal" means that all news services, news organizations, and broadcasting services, including such services or organizations that receive financing, assistance, or other support from a governmental or official source, are permitted to establish and operate a news bureau in the United States and Cuba.

SEC. 115.[24] EFFECT OF ACT ON LAWFUL UNITED STATES GOVERNMENT ACTIVITIES.

Nothing in this Act prohibits any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency, or of an intelligence agency, of the United States.

SEC. 116.[25] CONDEMNATION OF CUBAN ATTACK ON AMERICAN AIRCRAFT.

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

(1) Brothers to the Rescue is a Miami-based humanitarian organization engaged in searching for and aiding Cuban refugees in the Straits of Florida, and was engaged in such a mission on Saturday, February 24, 1996.

(2) The members of Brothers to the Rescue were flying unarmed and defenseless planes in a mission identical to hundreds they have flown since 1991 and posed no threat whatsoever to the Cuban Government, the Cuban military, or the Cuban people.

(3) Statements by the Cuban Government that Brothers to the Rescue has engaged in covert operations, bombing campaigns, and commando operations against the Government of Cuba have no basis in fact.

(4) The Brothers to the Rescue aircraft notified air traffic controllers as to their flight plans, which would take them south of the 24th parallel and close to Cuban airspace.

(5) International law provides a nation with airspace over the 12-mile territorial sea.

[24] 22 U.S.C. 6045.
[25] 22 U.S.C. 6046.

(6) The response of Fidel Castro's dictatorship to Saturday's afternoon flight was to scramble 2 fighter jets from a Havana airfield.

(7) At approximately 3:24 p.m., the pilot of one of the Cuban MiGs received permission and proceeded to shoot down one Brothers to the Rescue airplane more than 6 miles north of the Cuban exclusion zone, or 18 miles from the Cuban coast.

(8) Approximately 7 minutes later, the pilot of the Cuban fighter jet received permission and proceeded to shoot down the second Brothers to the Rescue airplane almost 18.5 miles north of the Cuban exclusion zone, or 30.5 miles from the Cuban coast.

(9) The Cuban dictatorship, if it truly felt threatened by the flight of these unarmed aircraft, could have and should have pursued other peaceful options as required by international law.

(10) The response chosen by Fidel Castro, the use of lethal force, was completely inappropriate to the situation presented to the Cuban Government, making such actions a blatant and barbaric violation of international law and tantamount to cold-blooded murder.

(11) There were no survivors of the attack on these aircraft, and the crew of a third aircraft managed to escape this criminal attack by Castro's Air Force.

(12) The crew members of the destroyed planes, Pablo Morales, Carlos Costa, Mario de la Pena, and Armando Alejandre, were United States citizens from Miami flying with Brothers to the Rescue on a voluntary basis.

(13) It is incumbent upon the United States Government to protect the lives and livelihoods of United States citizens as well as the rights of free passage and humanitarian missions.

(14) This premeditated act took place after a week-long wave of repression by the Cuban Government against Concilio Cubano, an umbrella organization of human rights activists, dissidents, independent economists, and independent journalists, among others.

(15) The wave of repression against Concilio Cubano, whose membership is committed to peaceful democratic change in Cuba, included arrests, strip searches, house arrests, and in some cases sentences to more than 1 year in jail.

(b) STATEMENTS BY THE CONGRESS.—(1) The Congress strongly condemns the act of terrorism by the Castro regime in shooting down the Brothers to the Rescue aircraft on February 24, 1996.

(2) The Congress extends its condolences to the families of Pablo Morales, Carlos Costa, Mario de la Pena, and Armando Alejandre, the victims of the attack.

(3) The Congress urges the President to seek, in the International Court of Justice, indictment for this act of terrorism by Fidel Castro.

TITLE II—ASSISTANCE TO A FREE AND INDEPENDENT CUBA

SEC. 201.[26] POLICY TOWARD A TRANSITION GOVERNMENT AND A DEMOCRATICALLY ELECTED GOVERNMENT IN CUBA.

The policy of the United States is as follows:

(1) To support the self-determination of the Cuban people.

(2) To recognize that the self-determination of the Cuban people is a sovereign and national right of the citizens of Cuba which must be exercised free of interference by the government of any other country.

(3) To encourage the Cuban people to empower themselves with a government which reflects the self-determination of the Cuban people.

(4) To recognize the potential for a difficult transition from the current regime in Cuba that may result from the initiatives taken by the Cuban people for self-determination in response to the intransigence of the Castro regime in not allowing any substantive political or economic reforms, and to be prepared to provide the Cuban people with humanitarian, developmental, and other economic assistance.

(5) In solidarity with the Cuban people, to provide appropriate forms of assistance—

(A) to a transition government in Cuba;

(B) to facilitate the rapid movement from such a transition government to a democratically elected government in Cuba that results from an expression of the self-determination of the Cuban people; and

(C) to support such a democratically elected government.

(6) Through such assistance, to facilitate a peaceful transition to representative democracy and a market economy in Cuba and to consolidate democracy in Cuba.

(7) To deliver such assistance to the Cuban people only through a transition government in Cuba, through a democratically elected government in Cuba, through United States Government organizations, or through United States, international, or indigenous nongovernmental organizations.

(8) To encourage other countries and multilateral organizations to provide similar assistance, and to work cooperatively with such countries and organizations to coordinate such assistance.

(9) To ensure that appropriate assistance is rapidly provided and distributed to the people of Cuba upon the institution of a transition government in Cuba.

(10) Not to provide favorable treatment or influence on behalf of any individual or entity in the selection by the Cuban people of their future government.

(11) To assist a transition government in Cuba and a democratically elected government in Cuba to prepare the Cuban military forces for an appropriate role in a democracy.

(12) To be prepared to enter into negotiations with a democratically elected government in Cuba either to return the

[26] 22 U.S.C. 6061.

United States Naval Base at Guantanamo to Cuba or to renegotiate the present agreement under mutually agreeable terms.

(13) To consider the restoration of diplomatic recognition and support the reintegration of the Cuban Government into Inter-American organizations when the President determines that there exists a democratically elected government in Cuba.

(14) To take steps to remove the economic embargo of Cuba when the President determines that a transition to a democratically elected government in Cuba has begun.

(15) To assist a democratically elected government in Cuba to strengthen and stabilize its national currency.

(16) To pursue trade relations with a free, democratic, and independent Cuba.

SEC. 202.[27] ASSISTANCE FOR THE CUBAN PEOPLE.

(a) AUTHORIZATION.—

(1) IN GENERAL.—The President shall develop a plan for providing economic assistance to Cuba at such time as the President determines that a transition government or a democratically elected government in Cuba (as determined under section 203(c)) is in power.

(2) EFFECT ON OTHER LAWS.—Assistance may be provided under this section subject to an authorization of appropriations and subject to the availability of appropriations.

(b) PLAN FOR ASSISTANCE.—

(1) DEVELOPMENT OF PLAN.—The President shall develop a plan for providing assistance under this section—

(A) to Cuba when a transition government in Cuba is in power; and

(B) to Cuba when a democratically elected government in Cuba is in power.

(2) TYPES OF ASSISTANCE.—Assistance under the plan developed under paragraph (1) may, subject to an authorization of appropriations and subject to the availability of appropriations, include the following:

(A) TRANSITION GOVERNMENT.—(i) Except as provided in clause (ii), assistance to Cuba under a transition government shall, subject to an authorization of appropriations and subject to the availability of appropriations, be limited to—

(I) such food, medicine, medical supplies and equipment, and assistance to meet emergency energy needs, as is necessary to meet the basic human needs of the Cuban people; and

(II) assistance described in subparagraph (C).

(ii) Assistance in addition to assistance under clause (i) may be provided, but only after the President certifies to the appropriate congressional committees, in accordance with procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961, that such assistance is essential to the successful completion of the transition to democracy.

[27] 22 U.S.C. 6062.

(iii) Only after a transition government in Cuba is in power, freedom of individuals to travel to visit their relatives without any restrictions shall be permitted.

(B) DEMOCRATICALLY ELECTED GOVERNMENT.—Assistance to a democratically elected government in Cuba may, subject to an authorization of appropriations and subject to the availability of appropriations, consist of economic assistance in addition to assistance available under subparagraph (A), together with assistance described in subparagraph (C). Such economic assistance may include—

(i) assistance under chapter 1 of part I (relating to development assistance), and chapter 4 of part II (relating to the economic support fund), of the Foreign Assistance Act of 1961;

(ii) assistance under the Agricultural Trade Development and Assistance Act of 1954;

(iii) financing, guarantees, and other forms of assistance provided by the Export-Import Bank of the United States;

(iv) financial support provided by the Overseas Private Investment Corporation for investment projects in Cuba;

(v) assistance provided by the Trade and Development Agency;

(vi) Peace Corps programs; and

(vii) other appropriate assistance to carry out the policy of section 201.

(C) MILITARY ADJUSTMENT ASSISTANCE.—Assistance to a transition government in Cuba and to a democratically elected government in Cuba shall also include assistance in preparing the Cuban military forces to adjust to an appropriate role in a democracy.

(c) STRATEGY FOR DISTRIBUTION.—The plan developed under subsection (b) shall include a strategy for distributing assistance under the plan.

(d) DISTRIBUTION.—Assistance under the plan developed under subsection (b) shall be provided through United States Government organizations and nongovernmental organizations and private and voluntary organizations, whether within or outside the United States, including humanitarian, educational, labor, and private sector organizations.

(e) INTERNATIONAL EFFORTS.—The President shall take the necessary steps—

(1) to seek to obtain the agreement of other countries and of international financial institutions and multilateral organizations to provide to a transition government in Cuba, and to a democratically elected government in Cuba, assistance comparable to that provided by the United States under this Act; and

(2) to work with such countries, institutions, and organizations to coordinate all such assistance programs.

(f) COMMUNICATION WITH THE CUBAN PEOPLE.—The President shall take the necessary steps to communicate to the Cuban people the plan for assistance developed under this section.

(g) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the President shall transmit to the appropriate congressional committees a report describing in detail the plan developed under this section.

(h) REPORT ON TRADE AND INVESTMENT RELATIONS.—

(1) REPORT TO CONGRESS.—The President, following the transmittal to the Congress of a determination under section 203(c)(3) that a democratically elected government in Cuba is in power, shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate and the appropriate congressional committees a report that describes—

(A) acts, policies, and practices which constitute significant barriers to, or distortions of, United States trade in goods or services or foreign direct investment with respect to Cuba;

(B) policy objectives of the United States regarding trade relations with a democratically elected government in Cuba, and the reasons therefor, including possible—

(i) reciprocal extension of nondiscriminatory trade treatment (most-favored-nation treatment);

(ii) designation of Cuba as a beneficiary developing country under title V of the Trade Act of 1974 (relating to the Generalized System of Preferences) or as a beneficiary country under the Caribbean Basin Economic Recovery Act, and the implications of such designation with respect to trade with any other country that is such a beneficiary developing country or beneficiary country or is a party to the North American Free Trade Agreement; and

(iii) negotiations regarding free trade, including the accession of Cuba to the North American Free Trade Agreement;

(C) specific trade negotiating objectives of the United States with respect to Cuba, including the objectives described in section 108(b)(5) of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3317(b)(5)); and

(D) actions proposed or anticipated to be undertaken, and any proposed legislation necessary or appropriate, to achieve any of such policy and negotiating objectives.

(2) CONSULTATION.—The President shall consult with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate and the appropriate congressional committees and shall seek advice from the appropriate advisory committees established under section 135 of the Trade Act of 1974 regarding the policy and negotiating objectives and the legislative proposals described in paragraph (1).

SEC. 203.[28] COORDINATION OF ASSISTANCE PROGRAM; IMPLEMENTATION AND REPORTS TO CONGRESS; REPROGRAMMING.

(a) COORDINATING OFFICIAL.—The President shall designate a coordinating official who shall be responsible for—

(1) implementing the strategy for distributing assistance described in section 202(b);

(2) ensuring the speedy and efficient distribution of such assistance; and

(3) ensuring coordination among, and appropriate oversight by, the agencies of the United States that provide assistance described in section 202(b), including resolving any disputes among such agencies.

(b) UNITED STATES—CUBA COUNCIL.—Upon making a determination under subsection (c)(3) that a democratically elected government in Cuba is in power, the President, after consultation with the coordinating official, is authorized to designate a United States-Cuba council—

(1) to ensure coordination between the United States Government and the private sector in responding to change in Cuba, and in promoting market-based development in Cuba; and

(2) to establish periodic meetings between representatives of the United States and Cuban private sectors for the purpose of facilitating bilateral trade.

(c) IMPLEMENTATION OF PLAN; REPORTS TO CONGRESS.—

(1) Implementation with respect to transition government.—Upon making a determination that a transition government in Cuba is in power, the President shall transmit that determination to the appropriate congressional committees and shall, subject to an authorization of appropriations and subject to the availability of appropriations, commence the delivery and distribution of assistance to such transition government under the plan developed under section 202(b).

(2) REPORTS TO CONGRESS.—(A) The President shall transmit to the appropriate congressional committees a report setting forth the strategy for providing assistance described in section 202(b)(2) (A) and (C) to the transition government in Cuba under the plan of assistance developed under section 202(b), the types of such assistance, and the extent to which such assistance has been distributed in accordance with the plan.

(B) The President shall transmit the report not later than 90 days after making the determination referred to in paragraph (1), except that the President shall transmit the report in preliminary form not later than 15 days after making that determination.

(3) IMPLEMENTATION WITH RESPECT TO DEMOCRATICALLY ELECTED GOVERNMENT.—The President shall, upon determining that a democratically elected government in Cuba is in power, submit that determination to the appropriate congressional committees and shall, subject to an authorization of appropriations and subject to the availability of appropriations, commence the delivery and distribution of assistance to such

[28] 22 U.S.C. 6063.

democratically elected government under the plan developed under section 202(b).

(4) ANNUAL REPORTS TO CONGRESS.—Not later than 60 days after the end of each fiscal year, the President shall transmit to the appropriate congressional committees a report on the assistance provided under the plan developed under section 202(b), including a description of each type of assistance, the amounts expended for such assistance, and a description of the assistance to be provided under the plan in the current fiscal year.

(d) REPROGRAMMING.—Any changes in the assistance to be provided under the plan developed under section 202(b) may not be made unless the President notifies the appropriate congressional committees at least 15 days in advance in accordance with the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1).

SEC. 204.[29] TERMINATION OF THE ECONOMIC EMBARGO OF CUBA.

(a) PRESIDENTIAL ACTIONS.—Upon submitting a determination to the appropriate congressional committees under section 203(c)(1) that a transition government in Cuba is in power, the President, after consultation with the Congress, is authorized to take steps to suspend the economic embargo of Cuba and to suspend the right of action created in section 302 with respect to actions thereafter filed against the Cuban Government, to the extent that such steps contribute to a stable foundation for a democratically elected government in Cuba.

(b) SUSPENSION OF CERTAIN PROVISIONS OF LAW.—In carrying out subsection (a), the President may suspend the enforcement of—

(1) section 620(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a));

(2) section 620(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(f)) with respect to the "Republic of Cuba";

(3) sections 1704, 1705(d), and 1706 of the Cuban Democracy Act of 1992 (22 U.S.C. 6003, 6004(d), and 6005);

(4) section 902(c) of the Food Security Act of 1985; and

(5) the prohibitions on transactions described in part 515 of title 31, Code of Federal Regulations.

(c) ADDITIONAL PRESIDENTIAL ACTIONS.—Upon submitting a determination to the appropriate congressional committees under section 203(c)(3) that a democratically elected government in Cuba is in power, the President shall take steps to terminate the economic embargo of Cuba, including the restrictions under part 515 of title 31, Code of Federal Regulations.

(d) CONFORMING AMENDMENTS.—On the date on which the President submits a determination under section 203(c)(3)—

(1) section 620(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a)) is repealed;

(2) section 620(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(f)) is amended by striking "Republic of Cuba";

(3) sections 1704, 1705(d), and 1706 of the Cuban Democracy Act of 1992 (22 U.S.C. 6003, 6004(d), and 6005) are repealed; and

[29] 22 U.S.C. 6064.

(4) section 902(c) of the Food Security Act of 1985 is repealed.[30]

(e) REVIEW OF SUSPENSION OF ECONOMIC EMBARGO.—

(1) REVIEW.—If the President takes action under subsection (a) to suspend the economic embargo of Cuba, the President shall immediately so notify the Congress. The President shall report to the Congress no less frequently than every 6 months thereafter, until he submits a determination under section 203(c)(3) that a democratically elected government in Cuba is in power, on the progress being made by Cuba toward the establishment of such a democratically elected government. The action of the President under subsection (a) shall cease to be effective upon the enactment of a joint resolution described in paragraph (2).

(2) JOINT RESOLUTIONS.—For purposes of this subsection, the term "joint resolution" means only a joint resolution of the 2 Houses of Congress, the matter after the resolving clause of which is as follows: "That the Congress disapproves the action of the President under section 204(a) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 to suspend the economic embargo of Cuba, notice of which was submitted to the Congress on _____.", with the blank space being filled with the appropriate date.

(3) REFERRAL TO COMMITTEES.—Joint resolutions introduced in the House of Representatives shall be referred to the Committee on International Relations and joint resolutions introduced in the Senate shall be referred to the Committee on Foreign Relations.

(4) PROCEDURES.—(A) Any joint resolution shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(B) For the purpose of expediting the consideration and enactment of joint resolutions, a motion to proceed to the consideration of any joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

(C) Not more than 1 joint resolution may be considered in the House of Representatives and the Senate in the 6–month period beginning on the date on which the President notifies the Congress under paragraph (1) of the action taken under subsection (a), and in each 6–month period thereafter.

SEC. 205.[31] REQUIREMENTS AND FACTORS FOR DETERMINING A TRANSITION GOVERNMENT.

(a) REQUIREMENTS.—For the purposes of this Act, a transition government in Cuba is a government that—

(1) has legalized all political activity;

(2) has released all political prisoners and allowed for investigations of Cuban prisons by appropriate international human rights organizations;

[30] 7 U.S.C. 1446g note.
[31] 22 U.S.C. 6065.

(3) has dissolved the present Department of State Security in the Cuban Ministry of the Interior, including the Committees for the Defense of the Revolution and the Rapid Response Brigades; and

(4) has made public commitments to organizing free and fair elections for a new government—

(A) to be held in a timely manner within a period not to exceed 18 months after the transition government assumes power;

(B) with the participation of multiple independent political parties that have full access to the media on an equal basis, including (in the case of radio, television, or other telecommunications media) in terms of allotments of time for such access and the times of day such allotments are given; and

(C) to be conducted under the supervision of internationally recognized observers, such as the Organization of American States, the United Nations, and other election monitors;

(5) has ceased any interference with Radio Marti or Television Marti broadcasts;

(6) makes public commitments to and is making demonstrable progress in—

(A) establishing an independent judiciary;

(B) respecting internationally recognized human rights and basic freedoms as set forth in the Universal Declaration of Human Rights, to which Cuba is a signatory nation;

(C) allowing the establishment of independent trade unions as set forth in conventions 87 and 98 of the International Labor Organization, and allowing the establishment of independent social, economic, and political associations;

(7) does not include Fidel Castro or Raul Castro; and

(8) has given adequate assurances that it will allow the speedy and efficient distribution of assistance to the Cuban people.

(b) ADDITIONAL FACTORS.—In addition to the requirements in subsection (a), in determining whether a transition government in Cuba is in power, the President shall take into account the extent to which that government—

(1) is demonstrably in transition from a communist totalitarian dictatorship to representative democracy;

(2) has made public commitments to, and is making demonstrable progress in—

(A) effectively guaranteeing the rights of free speech and freedom of the press, including granting permits to privately owned media and telecommunications companies to operate in Cuba;

(B) permitting the reinstatement of citizenship to Cuban-born persons returning to Cuba;

(C) assuring the right to private property; and

(D) taking appropriate steps to return to United States citizens (and entities which are 50 percent or more beneficially owned by United States citizens) property taken by

the Cuban Government from such citizens and entities on or after January 1, 1959, or to provide equitable compensation to such citizens and entities for such property;

(3) has extradited or otherwise rendered to the United States all persons sought by the United States Department of Justice for crimes committed in the United States; and

(4) has permitted the deployment throughout Cuba of independent and unfettered international human rights monitors.

SEC. 206.[32] REQUIREMENTS FOR DETERMINING A DEMOCRATICALLY ELECTED GOVERNMENT.

For purposes of this Act, a democratically elected government in Cuba, in addition to meeting the requirements of section 205(a), is a government which—

(1) results from free and fair elections—

(A) conducted under the supervision of internationally recognized observers; and

(B) in which—

(i) opposition parties were permitted ample time to organize and campaign for such elections; and

(ii) all candidates were permitted full access to the media;

(2) is showing respect for the basic civil liberties and human rights of the citizens of Cuba;

(3) is substantially moving toward a market-oriented economic system based on the right to own and enjoy property;

(4) is committed to making constitutional changes that would ensure regular free and fair elections and the full enjoyment of basic civil liberties and human rights by the citizens of Cuba;

(5) has made demonstrable progress in establishing an independent judiciary; and

(6) has made demonstrable progress in returning to United States citizens (and entities which are 50 percent or more beneficially owned by United States citizens) property taken by the Cuban Government from such citizens and entities on or after January 1, 1959, or providing full compensation for such property in accordance with international law standards and practice.

SEC. 207.[33] SETTLEMENT OF OUTSTANDING UNITED STATES CLAIMS TO CONFISCATED PROPERTY IN CUBA.

(a) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State shall provide a report to the appropriate congressional committees containing an assessment of the property dispute question in Cuba, including—

(1) an estimate of the number and amount of claims to property confiscated by the Cuban Government that are held by United States nationals in addition to those claims certified under section 507 of the International Claims Settlement Act of 1949;

[32] 22 U.S.C. 6066.
[33] 22 U.S.C. 6067.

(2) an assessment of the significance of promptly resolving confiscated property claims to the revitalization of the Cuban economy;

(3) a review and evaluation of technical and other assistance that the United States could provide to help either a transition government in Cuba or a democratically elected government in Cuba establish mechanisms to resolve property questions;

(4) an assessment of the role and types of support the United States could provide to help resolve claims to property confiscated by the Cuban Government that are held by United States nationals who did not receive or qualify for certification under section 507 of the International Claims Settlement Act of 1949; and

(5) an assessment of any areas requiring legislative review or action regarding the resolution of property claims in Cuba prior to a change of government in Cuba.

(d) SENSE OF CONGRESS.—It is the sense of the Congress that the satisfactory resolution of property claims by a Cuban Government recognized by the United States remains an essential condition for the full resumption of economic and diplomatic relations between the United States and Cuba.

TITLE III—PROTECTION OF PROPERTY RIGHTS OF UNITED STATES NATIONALS

SEC. 301.[34] FINDINGS.

The Congress makes the following findings:

(1) Individuals enjoy a fundamental right to own and enjoy property which is enshrined in the United States Constitution.

(2) The wrongful confiscation or taking of property belonging to United States nationals by the Cuban Government, and the subsequent exploitation of this property at the expense of the rightful owner, undermines the comity of nations, the free flow of commerce, and economic development.

(3) Since Fidel Castro seized power in Cuba in 1959—

(A) he has trampled on the fundamental rights of the Cuban people; and

(B) through his personal despotism, he has confiscated the property of—

(i) millions of his own citizens;

(ii) thousands of United States nationals; and

(iii) thousands more Cubans who claimed asylum in the United States as refugees because of persecution and later became naturalized citizens of the United States.

(4) It is in the interest of the Cuban people that the Cuban Government respect equally the property rights of Cuban nationals and nationals of other countries.

(5) The Cuban Government is offering foreign investors the opportunity to purchase an equity interest in, manage, or enter into joint ventures using property and assets some of which were confiscated from United States nationals.

[34] 22 U.S.C. 6081.

(6) This "trafficking" in confiscated property provides badly needed financial benefit, including hard currency, oil, and productive investment and expertise, to the current Cuban Government and thus undermines the foreign policy of the United States—

(A) to bring democratic institutions to Cuba through the pressure of a general economic embargo at a time when the Castro regime has proven to be vulnerable to international economic pressure; and

(B) to protect the claims of United States nationals who had property wrongfully confiscated by the Cuban Government.

(7) The United States Department of State has notified other governments that the transfer to third parties of properties confiscated by the Cuban Government "would complicate any attempt to return them to their original owners".

(8) The international judicial system, as currently structured, lacks fully effective remedies for the wrongful confiscation of property and for unjust enrichment from the use of wrongfully confiscated property by governments and private entities at the expense of the rightful owners of the property.

(9) International law recognizes that a nation has the ability to provide for rules of law with respect to conduct outside its territory that has or is intended to have substantial effect within its territory.

(10) The United States Government has an obligation to its citizens to provide protection against wrongful confiscations by foreign nations and their citizens, including the provision of private remedies.

(11) To deter trafficking in wrongfully confiscated property, United States nationals who were the victims of these confiscations should be endowed with a judicial remedy in the courts of the United States that would deny traffickers any profits from economically exploiting Castro's wrongful seizures.

SEC. 302.[35] LIABILITY FOR TRAFFICKING IN CONFISCATED PROPERTY CLAIMED BY UNITED STATES NATIONALS.

(a) CIVIL REMEDY.—

(1) LIABILITY FOR TRAFFICKING.—(A) Except as otherwise provided in this section, any person that, after the end of the 3-month period beginning on the effective date of this title, traffics in property which was confiscated by the Cuban Government on or after January 1, 1959, shall be liable to any United States national who owns the claim to such property for money damages in an amount equal to the sum of—

(i) the amount which is the greater of—

(I) the amount, if any, certified to the claimant by the Foreign Claims Settlement Commission under the International Claims Settlement Act of 1949, plus interest;

(II) the amount determined under section 303(a)(2), plus interest; or

[35] 22 U.S.C. 6082.

(III) the fair market value of that property, calculated as being either the current value of the property, or the value of the property when confiscated plus interest, whichever is greater; and

(ii) court costs and reasonable attorneys' fees.

(B) Interest under subparagraph (A)(i) shall be at the rate set forth in section 1961 of title 28, United States Code, computed by the court from the date of confiscation of the property involved to the date on which the action is brought under this subsection.

(2) PRESUMPTION IN FAVOR OF THE CERTIFIED CLAIMS.—There shall be a presumption that the amount for which a person is liable under clause (i) of paragraph (1)(A) is the amount that is certified as described in subclause (I) of that clause. The presumption shall be rebuttable by clear and convincing evidence that the amount described in subclause (II) or (III) of that clause is the appropriate amount of liability under that clause.

(3) INCREASED LIABILITY.—(A) Any person that traffics in confiscated property for which liability is incurred under paragraph (1) shall, if a United States national owns a claim with respect to that property which was certified by the Foreign Claims Settlement Commission under title V of the International Claims Settlement Act of 1949, be liable for damages computed in accordance with subparagraph (C).

(B) If the claimant in an action under this subsection (other than a United States national to whom subparagraph (A) applies) provides, after the end of the 3-month period described in paragraph (1) notice to—

(i) a person against whom the action is to be initiated, or

(ii) a person who is to be joined as a defendant in the action,

at least 30 days before initiating the action or joining such person as a defendant, as the case may be, and that person, after the end of the 30-day period beginning on the date the notice is provided, traffics in the confiscated property that is the subject of the action, then that person shall be liable to that claimant for damages computed in accordance with subparagraph (C).

(C) Damages for which a person is liable under subparagraph (A) or subparagraph (B) are money damages in an amount equal to the sum of—

(i) the amount determined under paragraph (1)(A)(ii), and

(ii) 3 times the amount determined applicable under paragraph (1)(A)(i).

(D) Notice to a person under subparagraph (B)—

(i) shall be in writing;

(ii) shall be posted by certified mail or personally delivered to the person; and

(iii) shall contain—

(I) a statement of intention to commence the action under this section or to join the person as a defendant

(as the case may be), together with the reasons therefor;

(II) a demand that the unlawful trafficking in the claimant's property cease immediately; and

(III) a copy of the summary statement published under paragraph (8).

(4) APPLICABILITY.—(A) Except as otherwise provided in this paragraph, actions may be brought under paragraph (1) with respect to property confiscated before, on, or after the date of the enactment of this Act.

(B) In the case of property confiscated before the date of the enactment of this Act, a United States national may not bring an action under this section on a claim to the confiscated property unless such national acquires ownership of the claim before such date of enactment.

(C) In the case of property confiscated on or after the date of the enactment of this Act, a United States national who, after the property is confiscated, acquires ownership of a claim to the property by assignment for value, may not bring an action on the claim under this section.

(5) TREATMENT OF CERTAIN ACTIONS.—(A) In the case of a United States national who was eligible to file a claim with the Foreign Claims Settlement Commission under title V of the International Claims Settlement Act of 1949 but did not so file the claim, that United States national may not bring an action on that claim under this section.

(B) In the case of any action brought under this section by a United States national whose underlying claim in the action was timely filed with the Foreign Claims Settlement Commission under title V of the International Claims Settlement Act of 1949 but was denied by the Commission, the court shall accept the findings of the Commission on the claim as conclusive in the action under this section.

(C) A United States national, other than a United States national bringing an action under this section on a claim certified under title V of the International Claims Settlement Act of 1949, may not bring an action on a claim under this section before the end of the 2-year period beginning on the date of the enactment of this Act.

(D) An interest in property for which a United States national has a claim certified under title V of the International Claims Settlement Act of 1949 may not be the subject of a claim in an action under this section by any other person. Any person bringing an action under this section whose claim has not been so certified shall have the burden of establishing for the court that the interest in property that is the subject of the claim is not the subject of a claim so certified.

(6) INAPPLICABILITY OF ACT OF STATE DOCTRINE.—No court of the United States shall decline, based upon the act of state doctrine, to make a determination on the merits in an action brought under paragraph (1).

(7) LICENSES NOT REQUIRED.—(A) Notwithstanding any other provision of law, an action under this section may be brought and may be settled, and a judgment rendered in such action

may be enforced, without obtaining any license or other permission from any agency of the United States, except that this paragraph shall not apply to the execution of a judgment against, or the settlement of actions involving, property blocked under the authorities of section 5(b) of the Trading with the Enemy Act that were being exercised on July 1, 1977, as a result of a national emergency declared by the President before such date, and are being exercised on the date of the enactment of this Act.

(B) Notwithstanding any other provision of law, and for purposes of this title only, any claim against the Cuban Government shall not be deemed to be an interest in property the transfer of which to a United States national required before the enactment of this Act, or requires after the enactment of this Act, a license issued by, or the permission of, any agency of the United States.

(8)[36] PUBLICATION BY ATTORNEY GENERAL.—Not later than 60 days after the date of the enactment of this Act, the Attorney General shall prepare and publish in the Federal Register a concise summary of the provisions of this title, including a statement of the liability under this title of a person trafficking in confiscated property, and the remedies available to United States nationals under this title.

(b) AMOUNT IN CONTROVERSY.—An action may be brought under this section by a United States national only where the amount in controversy exceeds the sum or value of $50,000, exclusive of interest, costs, and attorneys' fees. In calculating $50,000 for purposes of the preceding sentence, the applicable amount under subclause (I), (II), or (III) of subsection (a)(1)(A)(i) may not be tripled as provided in subsection (a)(3).

(c) PROCEDURAL REQUIREMENTS.—

(1) IN GENERAL.—Except as provided in this title, the provisions of title 28, United States Code, and the rules of the courts of the United States apply to actions under this section to the same extent as such provisions and rules apply to any other action brought under section 1331 of title 28, United States Code.

(2) SERVICE OF PROCESS.—In an action under this section, service of process on an agency or instrumentality of a foreign state in the conduct of a commercial activity, or against individuals acting under color of law, shall be made in accordance with section 1608 of title 28, United States Code.

(d) ENFORCEABILITY OF JUDGMENTS AGAINST CUBAN GOVERNMENT.—In an action brought under this section, any judgment against an agency or instrumentality of the Cuban Government shall not be enforceable against an agency or instrumentality of either a transition government in Cuba or a democratically elected government in Cuba.

(e) CERTAIN PROPERTY IMMUNE FROM EXECUTION.—Section 1611 of title 28, United States Code, is amended by adding at the end the following new subsection:

[36] The summary required by this paragraph may be found at 61 F.R. 24955 (Department of Justice, AG Order No. 2029–96, effective May 17, 1996).

"(c) Notwithstanding the provisions of section 1610 of this chapter, the property of a foreign state shall be immune from attachment and from execution in an action brought under section 302 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 to the extent that the property is a facility or installation used by an accredited diplomatic mission for official purposes.".

(f) ELECTION OF REMEDIES.—

(1) ELECTION.—Subject to paragraph (2)—

(A) any United States national that brings an action under this section may not bring any other civil action or proceeding under the common law, Federal law, or the law of any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States, that seeks monetary or nonmonetary compensation by reason of the same subject matter; and

(B) any person who brings, under the common law or any provision of law other than this section, a civil action or proceeding for monetary or nonmonetary compensation arising out of a claim for which an action would otherwise be cognizable under this section may not bring an action under this section on that claim.

(2) TREATMENT OF CERTIFIED CLAIMANTS.—(A) In the case of any United States national that brings an action under this section based on a claim certified under title V of the International Claims Settlement Act of 1949—

(i) if the recovery in the action is equal to or greater than the amount of the certified claim, the United States national may not receive payment on the claim under any agreement entered into between the United States and Cuba settling claims covered by such title, and such national shall be deemed to have discharged the United States from any further responsibility to represent the United States national with respect to that claim;

(ii) if the recovery in the action is less than the amount of the certified claim, the United States national may receive payment under a claims agreement described in clause (i) but only to the extent of the difference between the amount of the recovery and the amount of the certified claim; and

(iii) if there is no recovery in the action, the United States national may receive payment on the certified claim under a claims agreement described in clause (i) to the same extent as any certified claimant who does not bring an action under this section.

(B) In the event some or all actions brought under this section are consolidated by judicial or other action in such manner as to create a pool of assets available to satisfy the claims in such actions, including a pool of assets in a proceeding in bankruptcy, every claimant whose claim in an action so consolidated was certified by the Foreign Claims Settlement Commission under title V of the International Claims Settlement Act of 1949 shall be entitled to payment in full of its claim from the assets in such pool before any payment is made from

the assets in such pool with respect to any claim not so certified.

(g) DEPOSIT OF EXCESS PAYMENTS BY CUBA UNDER CLAIMS AGREEMENT.—Any amounts paid by Cuba under any agreement entered into between the United States and Cuba settling certified claims under title V of the International Claims Settlement Act of 1949 that are in excess of the payments made on such certified claims after the application of subsection (f) shall be deposited into the United States Treasury.

(h) TERMINATION OF RIGHTS.—

(1) IN GENERAL.—All rights created under this section to bring an action for money damages with respect to property confiscated by the Cuban Government—

(A) may be suspended under section 204(a); and

(B) shall cease upon transmittal to the Congress of a determination of the President under section 203(c)(3) that a democratically elected government in Cuba is in power.

(2) PENDING SUITS.—The suspension or termination of rights under paragraph (1) shall not affect suits commenced before the date of such suspension or termination (as the case may be), and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if the suspension or termination had not occurred.

(i) IMPOSITION OF FILING FEES.—The Judicial Conference of the United States shall establish a uniform fee that shall be imposed upon the plaintiff or plaintiffs in each action brought under this section. The fee should be established at a level sufficient to recover the costs to the courts of actions brought under this section. The fee under this subsection is in addition to any other fees imposed under title 28, United States Code.

SEC. 303.[37] PROOF OF OWNERSHIP OF CLAIMS TO CONFISCATED PROPERTY.

(a) EVIDENCE OF OWNERSHIP.—

(1) CONCLUSIVENESS OF CERTIFIED CLAIMS.—In any action brought under this title, the court shall accept as conclusive proof of ownership of an interest in property a certification of a claim to ownership of that interest that has been made by the Foreign Claims Settlement Commission under title V of the International Claims Settlement Act of 1949 (22 U.S.C. 1643 and following).

(2) CLAIMS NOT CERTIFIED.—If in an action under this title a claim has not been so certified by the Foreign Claims Settlement Commission, the court may appoint a special master, including the Foreign Claims Settlement Commission, to make determinations regarding the amount and ownership of the claim. Such determinations are only for evidentiary purposes in civil actions brought under this title and do not constitute certifications under title V of the International Claims Settlement Act of 1949.

(3) EFFECT OF DETERMINATIONS OF FOREIGN OR INTERNATIONAL ENTITIES.—In determining the amount or ownership

[37] 22 U.S.C. 6083.

of a claim in an action under this title, the court shall not accept as conclusive evidence any findings, orders, judgments, or decrees from administrative agencies or courts of foreign countries or international organizations that declare the value of or invalidate the claim, unless the declaration of value or invalidation was found pursuant to binding international arbitration to which the United States or the claimant submitted the claim.

(b) AMENDMENT OF THE INTERNATIONAL CLAIMS SETTLEMENT ACT OF 1949.—Title V of the International Claims Settlement Act of 1949 (22 U.S.C. 1643 and following) is amended by adding at the end the following new section:

"DETERMINATION OF OWNERSHIP OF CLAIMS REFERRED BY DISTRICT COURTS OF THE UNITED STATES

"SEC. 514. Notwithstanding any other provision of this Act and only for purposes of section 302 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996, a United State district court, for fact-finding purposes, may refer to the Commission, and the Commission may determine, questions of the amount and ownership of a claim by a United States national (as defined in section 4 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996), resulting from the confiscation of property by the Government of Cuba described in section 503(a), whether or not the United States national qualified as a national of the United States (as defined in section 502(1)) at the time of the action by the Government of Cuba.".

(c) RULE OF CONSTRUCTION.—Nothing in this Act or in section 514 of the International Claims Settlement Act of 1949, as added by subsection (b), shall be construed—

(1) to require or otherwise authorize the claims of Cuban nationals who became United States citizens after their property was confiscated to be included in the claims certified to the Secretary of State by the Foreign Claims Settlement Commission for purposes of future negotiation and espousal of claims with a friendly government in Cuba when diplomatic relations are restored; or

(2) as superseding, amending, or otherwise altering certifications that have been made under title V of the International Claims Settlement Act of 1949 before the date of the enactment of this Act.

SEC. 304. EXCLUSIVITY OF FOREIGN CLAIMS SETTLEMENT COMMISSION CERTIFICATION PROCEDURE.

Title V of the International Claims Settlement Act of 1949 (22 U.S.C. 1643 and following), as amended by section 303, is further amended by adding at the end the following new section:

"EXCLUSIVITY OF FOREIGN CLAIMS SETTLEMENT COMMISSION CERTIFICATION PROCEDURE

"SEC. 515.[38] (a) Subject to subsection (b), neither any national of the United States who was eligible to file a claim under section 503

[38] 22 U.S.C. 1643m.

but did not timely file such claim under that section, nor any person who was ineligible to file a claim under section 503, nor any national of Cuba, including any agency, instrumentality, subdivision, or enterprise of the Government of Cuba or any local government of Cuba, nor any successor thereto, whether or not recognized by the United States, shall have a claim to, participate in, or otherwise have an interest in, the compensation proceeds or nonmonetary compensation paid or allocated to a national of the United States by virtue of a claim certified by the Commission under section 507, nor shall any district court of the United States have jurisdiction to adjudicate any such claim.

"(b) Nothing in subsection (a) shall be construed to detract from or otherwise affect any rights in the shares of capital stock of nationals of the United States owning claims certified by the Commission under section 507.".

SEC. 305.[39] LIMITATION OF ACTIONS.

An action under section 302 may not be brought more than 2 years after the trafficking giving rise to the action has ceased to occur.

SEC. 306.[40] EFFECTIVE DATE.

(a) IN GENERAL.—Subject to subsections (b) and (c), this title and the amendments made by this title shall take effect on August 1, 1996.

(b) SUSPENSION AUTHORITY.—

(1) SUSPENSION AUTHORITY.—The President may suspend the effective date under subsection (a) for a period of not more than 6 months if the President determines and reports in writing to the appropriate congressional committees at least 15 days before such effective date that the suspension is necessary to the national interests of the United States and will expedite a transition to democracy in Cuba.

(2) ADDITIONAL SUSPENSIONS.—The President may suspend the effective date under subsection (a) for additional periods of not more than 6 months each, each of which shall begin on the day after the last day of the period during which a suspension is in effect under this subsection, if the President determines and reports in writing to the appropriate congressional committees at least 15 days before the date on which the additional suspension is to begin that the suspension is necessary to the national interests of the United States and will expedite a transition to democracy in Cuba.

(c) OTHER AUTHORITIES.—

(1) SUSPENSION.—After this title and the amendments of this title have taken effect—

(A) no person shall acquire a property interest in any potential or pending action under this title; and

(B) the President may suspend the right to bring an action under this title with respect to confiscated property

[39] 22 U.S.C. 6084.
[40] 22 U.S.C. 6085.

for a period of not more than 6 months if the President determines and reports in writing to the appropriate congressional committees at least 15 days before the suspension takes effect that such suspension is necessary to the national interests of the United States and will expedite a transition to democracy in Cuba.

(2) ADDITIONAL SUSPENSIONS.—The President may suspend the right to bring an action under this title for additional periods of not more than 6 months each, each of which shall begin on the day after the last day of the period during which a suspension is in effect under this subsection, if the President determines and reports in writing to the appropriate congressional committees at least 15 days before the date on which the additional suspension is to begin that the suspension is necessary to the national interests of the United States and will expedite a transition to democracy in Cuba.

(3) PENDING SUITS.—The suspensions of actions under paragraph (1) shall not affect suits commenced before the date of such suspension, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if the suspension had not occurred.

(d) RESCISSION OF SUSPENSION.—The President may rescind any suspension made under subsection (b) or (c) upon reporting to the appropriate congressional committees that doing so will expedite a transition to democracy in Cuba.

TITLE IV—EXCLUSION OF CERTAIN ALIENS[41]

SEC. 401.[42] EXCLUSION FROM THE UNITED STATES OF ALIENS WHO HAVE CONFISCATED PROPERTY OF UNITED STATES NATIONALS OR WHO TRAFFIC IN SUCH PROPERTY.

(a) GROUNDS FOR EXCLUSION.—The Secretary of State shall deny a visa to, and the Attorney General shall exclude from the United

[41] Guidelines for the implementation of title IV were issued on June 12, 1996, as Department of State Public Notice 2403 (61 F.R. 30655).

Sec. 2802 of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105–277; 112 Stat. 2681–845), as amended by sec. 209(b) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), provided the following:

"SEC. 2802. REPORTS ON DETERMINATIONS UNDER TITLE IV OF THE LIBERTAD ACT.

"(a) REPORTS REQUIRED.—Not later than 30 days after the date of the enactment of this Act and every 3 months thereafter during the period ending September 30, 2001, the Secretary of State shall submit to the appropriate congressional committees a report on the implementation of section 401 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6091). Each report shall include—

"(1) an unclassified list, by economic sector, of the number of entities then under review pursuant to that section;

"(2) an unclassified list of all entities and a classified list of all individuals that the Secretary of State has determined to be subject to that section;

"(3) an unclassified list of all entities and a classified list of all individuals that the Secretary of State has determined are no longer subject to that section;

"(4) an explanation of the status of the review underway for the cases referred to in paragraph (1); and

"(5) an unclassified explanation of each determination of the Secretary of State under section 401(a) of that Act and each finding of the Secretary under section 401(c) of that Act—

"(A) since the date of the enactment of this Act, in the case of the first report under this subsection; and

"(B) in the preceding 3-month period, in the case of each subsequent report.

States, any alien who the Secretary of State determines is a person who, after the date of the enactment of this Act—

(1) has confiscated, or has directed or overseen the confiscation of, property a claim to which is owned by a United States national, or converts or has converted for personal gain confiscated property, a claim to which is owned by a United States national;

(2) traffics in confiscated property, a claim to which is owned by a United States national;

(3) is a corporate officer, principal, or shareholder with a controlling interest of an entity which has been involved in the confiscation of property or trafficking in confiscated property, a claim to which is owned by a United States national; or

(4) is a spouse, minor child, or agent of a person excludable under paragraph (1), (2), or (3).

(b) DEFINITIONS.—As used in this section, the following terms have the following meanings:

(1) CONFISCATED; CONFISCATION.—The terms "confiscated" and "confiscation" refer to—

(A) the nationalization, expropriation, or other seizure by the Cuban Government of ownership or control of property—

(i) without the property having been returned or adequate and effective compensation provided; or

(ii) without the claim to the property having been settled pursuant to an international claims settlement agreement or other mutually accepted settlement procedure; and

(B) the repudiation by the Cuban Government of, the default by the Cuban Government on, or the failure of the Cuban Government to pay—

(i) a debt of any enterprise which has been nationalized, expropriated, or otherwise taken by the Cuban Government;

(ii) a debt which is a charge on property nationalized, expropriated, or otherwise taken by the Cuban Government; or

(iii) a debt which was incurred by the Cuban Government in satisfaction or settlement of a confiscated property claim.

(2) TRAFFICS.—(A) Except as provided in subparagraph (B), a person "traffics" in confiscated property if that person knowingly and intentionally—

(i)(I) transfers, distributes, dispenses, brokers, or otherwise disposes of confiscated property,

(II) purchases, receives, obtains control of, or otherwise acquires confiscated property, or

(III) improves (other than for routine maintenance), invests in (by contribution of funds or anything of value, other than for routine maintenance), or begins after the

"(b) PROTECTION OF IDENTITY OF CONCERNED ENTITIES.—In preparing the report under subsection (a), the names of entities shall not be identified under paragraph (1) or (4).".

[42] 22 U.S.C. 6091.

date of the enactment of this Act to manage, lease, possess, use, or hold an interest in confiscated property,

(ii) enters into a commercial arrangement using or otherwise benefiting from confiscated property, or

(iii) causes, directs, participates in, or profits from, trafficking (as described in clause (i) or (ii)) by another person, or otherwise engages in trafficking (as described in clause (i) or (ii)) through another person, without the authorization of any United States national who holds a claim to the property.

(B) The term "traffics" does not include—

(i) the delivery of international telecommunication signals to Cuba;

(ii) the trading or holding of securities publicly traded or held, unless the trading is with or by a person determined by the Secretary of the Treasury to be a specially designated national;

(iii) transactions and uses of property incident to lawful travel to Cuba, to the extent that such transactions and uses of property are necessary to the conduct of such travel; or

(iv) transactions and uses of property by a person who is both a citizen of Cuba and a resident of Cuba, and who is not an official of the Cuban Government or the ruling political party in Cuba.

(c) EXEMPTION.—This section shall not apply where the Secretary of State finds, on a case by case basis, that the entry into the United States of the person who would otherwise be excluded under this section is necessary for medical reasons or for purposes of litigation of an action under title III.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—This section applies to aliens seeking to enter the United States on or after the date of the enactment of this Act.

(2) TRAFFICKING.—This section applies only with respect to acts within the meaning of "traffics" that occur on or after the date of the enactment of this Act.

(3) Enterprise for the Americas Initiative Act of 1992

Partial text of Public Law 102–532 [H.R. 4059], 106 Stat. 3509, approved October 27, 1992

NOTE.—Amendments to title VI of the Agricultural Trade Development and Assistance Act of 1954 enacted in Public Law 102–532 have been incorporated into that Act. See also Executive Order 13345 of July 8, 2004 (69 F.R. 41901), assigning foreign affairs functions and implementing the Enterprise for the Americas Initiative and the Tropical Forest Conservation Act, beginning at page 592.

AN ACT To amend the Agricultural Trade Development and Assistance Act of 1954 to authorize additional functions within the Enterprise for the Americas Initiative, and for other purposes.

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

SECTION 1.[1] SHORT TITLE.

This Act may be cited as the "Enterprise for the Americas Initiative Act of 1992".

SEC. 2.[2] GOOD NEIGHBOR ENVIRONMENTAL ACT OF 1992. * * *

SEC. 3.[3] ANNUAL REPORTS TO THE CONGRESS. * * *

SEC. 4.[4] CENTER FOR NORTH AMERICAN STUDIES.

(a) ESTABLISHMENT.—The Secretary of Agriculture shall establish a center, to be known as the Center For North American Studies, whose primary purpose shall be to promote better agricultural relationships among Canada, Mexico, and the United States through cooperative study, training, and research.

(b) LOCATION.—The Institute shall be located at an institution of higher education or at a consortium of such institutions.

(c) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated $10,000,000 for fiscal year 1994 and such sums as may necessary for each of fiscal years 1995 and 1996.

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[1] 7 U.S.C. 1691 note.

[2] Sec. 2 added new secs. 616 through 619 to title VI of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738).

[3] Sec. 3 amended sec. 614(a) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738mm(a)).

[4] 7 U.S.C. 3294.

SEC. 5. STUDY OF THE EFFECT OF FREE TRADE WITH LATIN AMERICAN AND CARIBBEAN COUNTRIES ON THE UNITED STATES ECONOMY.

The President shall transmit to the Congress, not later than 8 months after the date of the enactment of this Act, a study describing—

(1) in summary fashion, the likely effect on major United States industries and other sectors, including agriculture, that could be most affected by a hemispherical free trade zone with Latin American and Caribbean countries;

(2) the regions in the United States that would be most affected by a hemispherical free trade zone with Latin American and Caribbean countries and, in summary fashion, the nature of these effects;

(3) the extent to which horticultural exports from Latin American and Caribbean countries complement or compete with United States production;

(4) a country-by-country overview of recent economic developments in Latin American and Caribbean countries significantly influencing United States relations with such countries, including present trade and investment patterns in these regions;

(5) the likely effect of a hemispherical free trade zone with Latin American and Caribbean countries on the United States economy and its multilateral interrelationship with other countries in the region, including Canada and Mexico;

(6) the extent to which manufactured products exported from Latin American and Caribbean countries complement or compete with United States production; and

(7) the likely effects of a hemispherical free trade zone with Latin American and Caribbean countries on existing environmental, agricultural, labor, and consumer protection laws and practices within the United States and within the other countries included in the zone.

SEC. 6.[5] THE GOOD NEIGHBOR ENVIRONMENTAL BOARD.

(a) ESTABLISHMENT.—The President shall establish an advisory board to be known as the Good Neighbor Environmental Board (hereinafter in this section referred to as the "Board").

(b) PURPOSE.—The purpose of the Board shall be to advise the President and the Congress on the need for implementation of environmental and infrastructure projects (including projects that affect agriculture, rural development, and human nutrition) within the States of the United States contiguous to Mexico in order to improve the quality of life of persons residing on the United States side of the border.

(c) MEMBERSHIP.—The Board shall be composed of—

(1) representatives from the United States Government, including a representative from the Department of Agriculture and representatives from other appropriate agencies;

(2) representatives from the governments of the States of Arizona, California, New Mexico, and Texas; and

(3) representatives from private organizations, including community development, academic, health, environmental, and

[5] 7 U.S.C. 5404.

other nongovernmental entities with experience and expertise on environmental and infrastructure problems along the southwest border.

(d) ANNUAL REPORTS TO THE PRESIDENT AND CONGRESS.—

(1) IN GENERAL.—The Board shall submit to the President and the Congress of the United States an annual report on—

(A) the environmental and infrastructure projects referred to in subsection (a) that have been implemented, and

(B) the need for the implementation of additional environmental and infrastructure projects.

(2) TRANSMISSION OF COPIES TO BOARD MEMBERS.—The Board shall—

(A) transmit to each member of the Board a copy of any report to be submitted pursuant to paragraph (1) at least 14 days before its submission, and

(B) allow each member of the Board to have 14 days within which to prepare and submit supplemental views with respect to the recommendations of the Board for inclusion in such report.

(4) Enterprise for the Americas Facility as Established in P.L. 480

Title VI of Public Law 83–480 [S. 2475], 68 Stat. 454, approved July 10, 1954; as amended

TITLE VI—ENTERPRISE FOR THE AMERICAS INITIATIVE

SEC. 601.[1] ESTABLISHMENT OF THE FACILITY.

There is established in the Department of the Treasury an entity to be known as the "Enterprise for the Americas Facility" (hereafter referred to in this title as the "Facility").

SEC. 602.[2] PURPOSE.

The purpose of this title is to encourage and support improvement in the lives of the people of Latin America and the Caribbean through market-oriented reforms and economic growth with interrelated actions to promote debt reduction, investment reforms, and community-based conservation and sustainable use of the environment. The Facility will support such objectives through the administration of debt reduction operations relating to those countries that meet investment reform and other policy conditions provided for in this title.

SEC. 603.[3] ELIGIBILITY FOR BENEFITS UNDER THE FACILITY.

(a) REQUIREMENTS.—To be eligible for benefits from the Facility under this title, a country shall—

(1) be a Latin American or Caribbean country;

(2) have in effect or have received approval for, or, as appropriate in exceptional circumstances, be making significant progress towards the establishment of—

(A) an International Monetary Fund (hereafter referred to in this title as the "IMF") standby arrangement, extended IMF arrangement, or an arrangement under the structural adjustment facility or enhanced structural adjustment facility, or in exceptional circumstances, an IMF-monitored program or its equivalent; and

(B) as appropriate, structural or sectoral adjustment loans from the International Bank for Reconstruction and Development (hereafter referred to in this title as the "World Bank") or the International Development Association (hereafter referred to in this title as the "IDA");

[1] 7 U.S.C. 1738.
[2] 7 U.S.C. 1738a.
[3] 7 U.S.C. 1738b.

(3) have placed into effect major investment reforms in conjunction with an Inter-American[4] Development Bank (hereafter referred to as the "IDB") loan or otherwise be implementing, or making significant progress towards an open investment regime; and

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

(b) ELIGIBILITY DETERMINATION.—The President shall determine whether a country is an eligible country for purposes of subsection (a).

SEC. 604.[5] REDUCTION OF CERTAIN DEBT.

(a) AUTHORITY TO REDUCE DEBT.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the President may reduce the amount owed to the United States or any agency of the United States, and outstanding as of January 1, 1990, as a result of any credits extended under title I to a country eligible for benefits from the Facility.

(2) AVAILABILITY[6] OF APPROPRIATIONS.—The authorities under this section may be exercised only to the extent provided for in advance in appropriation Acts.

(b) LIMITATION.—A debt reduction authorized under subsection (a) shall be accomplished, at the direction of the Facility, through the exchange of a new obligation under this title for obligations of the type referred to in subsection (a) outstanding as of January 1, 1990.

(c) EXCHANGE OF OBLIGATIONS.—The Facility shall notify the Commodity Credit Corporation of an agreement entered into under subsection (b) with an eligible country to exchange a new obligation for outstanding obligations. At the direction of the Facility, the old obligations that are the subject of the agreement may be canceled and a new debt obligation may be established for the country relating to the agreement. The Commodity Credit Corporation shall make an adjustment in its accounts to reflect a debt reduction under this section.

SEC. 605.[7] REPAYMENT OF PRINCIPAL.

(a) CURRENCY OF PAYMENT.—The principal amount owed under each new obligation issued under section 604 shall be repaid in United States dollars.

(b) DEPOSIT OF PAYMENTS.—Principal repayments on new obligations issued under section 604 shall be deposited in Commodity Credit Corporation accounts.

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[4] Sec. 302 of Public Law 102–237 (105 Stat. 1855) added the hyphen to "InterAmerican".

[5] 7 U.S.C. 1738c. Title II, chapter VIII of Public Law 102–27 (105 Stat. 147, 7 U.S.C. 1736e note) provided the following:

"Title I of Public Law 480 program allowed for the repayment of loans for the sale of agricultural commodities in foreign or local currencies until December 31, 1971. Since that time, until the law was changed in the 1985 farm bill, all sales have been on dollar credit terms. In view of the present financial situation, it is impossible for many countries to repay their loans in dollars. Therefore, the President may use the authority in section 411 and section 604 of the Agricultural Trade Development and Assistance Act of 1954 to renegotiate the payment on Public Law 480 debt in eligible countries in Latin America, the Caribbean and sub-Saharan Africa.".

[6] Sec. 303 of Public Law 102–237 (105 Stat. 1855) corrected the spelling of "Availability".

[7] 7 U.S.C. 1738d.

SEC. 606.[8] INTEREST OF NEW OBLIGATIONS.

(a) RATE OF INTEREST.—New obligations issued to an eligible country under section 604 shall bear interest at a concessional rate.

(b) CURRENCY OF PAYMENT, DEPOSITS.—

(1) UNITED STATES DOLLARS.—An eligible country to which a new obligation has been issued under section 604 that has not entered into an agreement under section 607, shall be required to pay interest on such obligation in United States dollars which shall be deposited in Commodity Credit Corporation accounts.

(2) LOCAL CURRENCY.—If an eligible country to which a new obligation has been issued under section 604 has entered into an agreement under section 607, interest under such obligation may be paid in the local currency of the eligible country and deposited into an Environmental Fund as provided for in section 608. Such interest shall be the property of the eligible country until such time as it is disbursed under section 608. Such local currencies shall be used for the purposes specified in the agreement entered into under section 607.

(c) INTEREST PREVIOUSLY PAID.—If an eligible country to which a new obligation has been issued under section 604 enters into an agreement under section 607 subsequent to the date on which interest first becomes due on such new obligation, any interest paid on such new obligation prior to such agreement being entered into shall not be redeposited into the Fund established for the eligible country under section 608(a) but shall be deposited into Commodity Credit Corporation accounts.[9]

SEC. 607.[10] ENVIRONMENTAL FRAMEWORK AGREEMENTS.

(a) AUTHORITY.—The President is authorized to enter into an environmental framework agreement with each country eligible for benefits from the Facility concerning the operation and use of an Enterprise for the Americas Environmental Fund (hereafter referred to in this title as the "Environmental Fund")[11] established under section 608 for that country. The President shall consult with the Board established under section 610 when entering into such agreements.

(b) REQUIREMENTS.—An environmental framework agreement entered into under this section shall—

(1) require the eligible country to establish an Environmental Fund;

(2) require the eligible country to make interest payments under section 608(a) into the Environmental Fund;

(3) require the eligible country to make prompt disbursements from the Environmental Fund to the body described in subsection (c);

(4) where appropriate, seek to maintain the value of the local currency resources deposited into the appropriate Environmental Fund in terms of United States dollars;

[8] 7 U.S.C. 1738e.
[9] Sec. 304 of Public Law 102–237 (105 Stat. 1855) inserted "accounts" after "Corporation".
[10] 7 U.S.C. 1738f.
[11] In a technical correction, sec. 305 of Public Law 102–237 (105 Stat. 1855) moved the close quotation mark.

(5) specify, in accordance with section 612, the purposes for which the Environmental Fund may be used; and

(6) contain reasonable provisions for the enforcement of the terms of the agreement.

(c) ADMINISTERING BODY.—Funds disbursed from the Environmental Fund in an eligible country shall be administered by a body constituted under the laws of the country. Such body shall—

(1) be composed of—

(A) one or more representatives appointed by the President;

(B) one or more representatives appointed by the eligible country; and

(C) representatives from a broad range of environmental and local community development nongovernmental organizations of the host country;

the majority of which shall be local representatives from nongovernmental organizations, and scientific or academic bodies;

(2) receive proposals for grant assistance from local organizations, and make grants to such organizations in accordance with the priorities agreed upon in the framework agreement and consistent with the overall purposes of section 612;

(3) be responsible for the management of the program and oversight of grant activities funded from resources of the Environmental Fund;

(4) be subject to fiscal audits by an independent auditor on an annual basis;

(5) present an annual program for review by the Board established under section 610 each year;

(6) present an annual report on the activities undertaken during the previous year to the Chairman of the Board established under section 610, and the government of the eligible country each year; and

(7) have any grant over $100,000 be subject to veto by the United States and the government of the eligible country.

SEC. 608.[12] ENTERPRISE FOR THE AMERICAS ENVIRONMENTAL FUNDS.

(a) ESTABLISHMENT.—An eligible country shall, under the terms of an environmental framework agreement entered into under section 607, establish an Environmental Fund to receive payments in local currency pursuant to section 607(b)(1).

(b) INVESTMENT.—Amounts deposited into an Environmental Fund shall be invested until disbursed. Notwithstanding any other provision of law, any return on such investment may be retained by the Environmental Fund and need not be deposited to the account of the Commodity Credit Corporation and may be retained without further appropriation by Congress.

SEC. 609.[13] DISBURSEMENT OF ENVIRONMENTAL FUNDS.

Funds in an Environmental Fund shall be disbursed only pursuant to a framework agreement entered into pursuant to section 607.

[12] 7 U.S.C. 1738g.
[13] 7 U.S.C. 1738h.

SEC. 610.[14] ENTERPRISE FOR THE AMERICAS BOARD.

(a) ESTABLISHMENT.—There is established a board to be known as the "Enterprise [15] for the Americas Board" (hereafter referred to in this title as the "Board").

(b) MEMBERSHIP AND CHAIRPERSON.—

(1) MEMBERSHIP.—The Board shall be composed of—

(A) six [16] representatives from the United States Government, at least one of whom shall be a representative of the Department of Agriculture; [16] and

(B) five [17] representatives from private nongovernmental environmental, child survival and child development,[18] community development, scientific, and academic organizations with experience and expertise in Latin America and the Caribbean, at least one of whom shall be a representative from a child survival and child development organization; [19]

to be appointed by the President.

(2) CHAIRPERSON.—The Board shall be headed by a chairperson who shall be appointed by the President from among the representatives appointed under paragraph (1)(A).

(c) RESPONSIBILITIES.—The Board shall—

(1) advise the President on the negotiations for the environmental framework agreements described in subsections (a) and (b) of section 607;

(2) ensure, in consultation with the government of the appropriate eligible country, with nongovernmental organizations of such eligible country, and if appropriate, of the region, and with environmental, scientific, and academic leaders of such eligible country and, as appropriate, of the region, that a suitable body referred to in section 607(c) is identified; and

(3) review the programs, operations, and fiscal audits of the bodies referred to in section 607(c).

SEC. 611.[20] OVERSIGHT.

The President may designate appropriate United States agencies to review the implementation of programs under this title and the fiscal audits relating to such programs. Such oversight shall not constitute active management of an Environmental Fund.

SEC. 612.[21] ELIGIBLE ACTIVITIES AND GRANTEES.

(a) ELIGIBLE ENTITIES.—Activities eligible to receive assistance through the framework agreements entered into under section 607, shall include—

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[14] 7 U.S.C. 1738i. Sec. 603(1) of Public Law 102–549 (106 Stat. 3669) amended the catchline; it formerly read "**ENVIRONMENT FOR THE AMERICAS BOARD**".

[15] Sec. 603(2) of Public Law 102–549 (106 Stat. 3669) struck out "Environment" and inserted in lieu thereof "Enterprise".

[16] Sec. 339(1) of Public Law 102–237 (105 Stat. 1861) struck out "five" and inserted in lieu thereof "six", and added after "Government" the text ", at least one of whom shall be a representative of the Department of Agriculture".

[17] Sec. 339(2) of Public Law 102–237 (105 Stat. 1861) struck out "four" and inserted in lieu thereof "five".

[18] Sec. 603(3)(A) of Public Law 102–549 (106 Stat. 3669) inserted "child survival and child development," after "environmental,".

[19] Sec. 603(3)(B) of Public Law 102–549 (106 Stat. 3669) inserted ", at least one of whom shall be a representative from a child survival and child development organization" after "Caribbean".

[20] 7 U.S.C. 1738j.

[21] 7 U.S.C. 1738k.

(1) activities of the type described in the Global Environmental Protection Assistance Act of 1989 (22 U.S.C. 2281 et seq.);[22]

(2) agriculture-related activities, including those that provide for the biological prevention and control of animal and plant pests and diseases, to benefit the environment; and

(3) local community initiatives that promote conservation and sustainable use of the environment.

(b) REGULATION.—All activities of the type referred to in subsection (a) shall, where appropriate, include initiatives that link conservation of natural resources with local community development.

(c) SETTING OF PRIORITIES.—Appropriate activities and priorities relating to the use of an Environmental Fund shall be set by local nongovernmental organizations within the appropriate eligible country.

(d) GRANTS.—Grants may be made by the body referred to in section 607(c) from the Environmental Fund for environmental purposes to—

(1) host country nongovernmental environmental, conservation, development, educational, and indigenous peoples organizations;

(2) other appropriate local or regional entities; or

(3) in exceptional circumstances, the government of the eligible country.

(e) PRIORITY.—In providing assistance from an Environmental Fund, the body established under section 607(c) within the eligible country shall give priority to projects that are run by nongovernmental organizations and other private entities, and that involve local communities in their planning and execution.

SEC. 613.[23] ENCOURAGING MULTILATERAL DEBT DONATIONS.

(a) ENCOURAGING DONATIONS FROM OFFICIAL CREDITORS.—The President should actively encourage other official creditors of an eligible country to provide debt reduction to such eligible country.

(b) ENCOURAGING DONATIONS FROM OTHER SOURCES.—The President shall make every effort to insure that programs established through Environmental Funds are able to receive donations from private and public entities, and private creditors of the eligible country.

SEC. 614.[24] ANNUAL REPORT TO CONGRESS.

(a) IN GENERAL.—Not later[25] than December 31 of each fiscal year, the President shall prepare and submit to the Speaker of the House of Representatives and the President Pro Tempore of the Senate an annual report concerning the operation of the Facility for the prior fiscal year. This report shall include—[26]

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[22] Sec. 306 of Public Law 102–237 (105 Stat. 1856) corrected a typographical error here by striking "462), and—", and inserting in lieu thereof "2281 et seq.);".

[23] 7 U.S.C. 1738*l*.

[24] 7 U.S.C. 1738m.

[25] Sec. 330 of Public Law 102–237 (105 Stat. 1858) struck out "Not later" and inserted in lieu thereof "(a) IN GENERAL.—Not later", and added subsec. (b).

[26] Sec. 3 of Public Law 102–532 (106 Stat. 3512) added the rest of subsec. (a) from "This report shall include—".

(1) a description of the activities undertaken by the Facility during the previous fiscal year;

(2) a description of any Environmental Framework Agreement entered into under this title;

(3) a report on what Environmental Funds have been established under this title and on the operations of such Funds; and

(4) a description of any grants that have been extended by administering bodies pursuant to an Environmental Framework Agreement under this title.

(b) SUPPLEMENTAL VIEWS IN ANNUAL REPORT.—No later than December 15 of each fiscal year, each member of the Board shall be entitled to receive a copy of the report required under subsection (a). Each member of the Board may prepare and submit supplemental views to the President on the implementation of this title by December 31 for inclusion in the annual report when it is transmitted to Congress pursuant to this section.

SEC. 615.[27] CONSULTATIONS WITH CONGRESS.

The President shall consult with the appropriate congressional committees on a periodic basis to review the operation of the Facility under this title and the eligibility of countries for benefits from the Facility under this title.

SEC. 616.[28] SALE OF QUALIFIED DEBT TO ELIGIBLE COUNTRIES.

(a) IN GENERAL.—

(1) AUTHORIZATION.—The President may sell to an eligible country up to 40 percent of such country's qualified debt, only if an amount of the local currency of such country (other than the price paid for the debt) equal to—

(A) not less than 40 percent of the price paid for such debt by such eligible country, or

(B) the difference between the price paid for such debt and the face value of such debt;

whichever is less, is used by such country through an Environmental Fund for eligible activities described in section 612.

(2) ENVIRONMENTAL FUNDS.—For purposes of this section, the term "Environmental Fund" means an Environmental Fund established under section 608. In the case of Mexico, such fund may be designated as the Good Neighbor Environmental Fund for the Border.

(3) ESTABLISHMENT AND OPERATION OF ENVIRONMENTAL FUNDS.—The President should advise eligible countries on the procedures required to establish and operate the Environmental Funds required to be established under paragraph (1).

(b) TERMS AND CONDITIONS.—The President shall establish the terms and conditions, including the amount to be paid by the eligible country, under which such country's qualified debt may be sold under this section.

(c) APPROPRIATIONS REQUIREMENT.—The authorities provided by this section may be exercised only in such amounts and to such extent as is provided in advance in appropriations Acts.

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[27] 7 U.S.C. 1738n. Added by sec. 331 of Public Law 102–237 (105 Stat. 1858).

[28] 7 U.S.C. 1738o. Added by sec. 2 of Public Law 102–532 (106 Stat. 3509).

(d) CERTAIN PROHIBITIONS INAPPLICABLE.—A sale of debt under this section shall not be considered assistance for purposes of any provision of law limiting assistance to a country.

(e) IMPLEMENTATION BY THE FACILITY.—A sale of debt authorized under this section shall be accomplished at the direction of the Facility. The Facility shall direct the Commodity Credit Corporation to carry out such sale. The Commodity Credit Corporation shall make an adjustment in its accounts to reflect the sale.

(f) DEPOSIT OF PROCEEDS.—The proceeds from a sale of qualified debt under this section shall be deposited in the account or accounts established by the Commodity Credit Corporation for the repayment of such debt by the eligible country.

(g) DEBTOR CONSULTATION.—Before any sale of qualified debt may occur under this section, the President should consult with the eligible country's government concerning such sale. The topics addressed in the consultation shall include the amount of qualified debt involved in the transaction and the uses to which funds made available as a result of the sale shall be applied.

SEC. 617.[29] SALE, REDUCTION, OR CANCELLATION OF QUALIFIED DEBT TO FACILITATE CERTAIN DEBT SWAPS.

(a) AUTHORITY TO SELL, REDUCE, OR CANCEL QUALIFIED DEBT.—For the purpose of facilitating eligible debt swaps, the President, in accordance with this section—

(1) may sell to an eligible purchaser (as determined pursuant to subsection (c)(1)) any qualified debt of an eligible country; or

(2) may reduce or cancel eligible debt of an eligible country upon receipt of payment from an eligible payor (as determined under subsection (c)(2)).

(b) TERMS AND CONDITIONS.—The President shall establish the terms and conditions under which qualified debt may be sold, reduced, or canceled pursuant to this section.

(c) ELIGIBLE PURCHASERS AND ELIGIBLE PAYORS.—

(1) SALES OF DEBT.—Qualified debt may be sold pursuant to subsection (a)(1) only to a purchaser who presents plans satisfactory to the President for using the debt for the purpose of engaging in eligible debt swaps.

(2) REDUCTION OR CANCELLATION OF DEBT.—Qualified debt may be reduced or cancelled pursuant to subsection (a)(2) only if the payor presents plans satisfactory to the President for using such reduction or cancellation for the purpose of facilitating eligible debt swaps.

(d) DEBTOR CONSULTATION AND RIGHT OF FIRST REFUSAL.—

(1) CONSULTATION.—Before selling, reducing, or canceling any qualified debt of an eligible country pursuant to this section, the President should consult with that country concerning, among other things, the amount of debt to be sold, reduced, or canceled and the uses of such debt for eligible debt swaps.

(2) RIGHT OF FIRST REFUSAL.—The qualified debt of an eligible country may be sold, reduced, or cancelled pursuant to this section only if that country has been offered the opportunity to

[29] 7 U.S.C. 1738p. Added by sec. 2 of Public Law 102–532 (106 Stat. 3509).

purchase that debt pursuant to section 616 and has not accepted that offer.

(e) LIMITATION.—In the aggregate, not more than 40 percent of the qualified debt of an eligible country may be sold, reduced, or cancelled under this section or sold under section 616.

(f) ADMINISTRATION.—The Facility shall notify the Commodity Credit Corporation of purchasers and payors the President has determined to be eligible under subsection (c), and shall direct the corporation to carry out the sale, reduction, or cancellation of a qualified debt pursuant to this section. The Commodity Credit Corporation shall make an adjustment in its accounts to reflect such sale, reduction, or cancellation.

(g) APPROPRIATIONS REQUIREMENT.—The authorities provided by this section may be exercised only in such amounts and to such extent as is provided in advance in appropriations Acts.

(h) DEPOSIT OF PROCEEDS.—The proceeds from the sale, reduction, or cancellation of qualified debt pursuant to this section shall be deposited in the United States Government account or accounts established for the repayment of such debt.

(i) ELIGIBLE DEBT SWAPS.—As used in this section, the term "eligible debt swap" means a debt-for-development swap or debt-for-nature swap.

SEC. 618.[30] NOTIFICATION TO CONGRESSIONAL COMMITTEES.

(a) NOTICE OF NEGOTIATIONS.—The Secretary of State and the Secretary of the Treasury shall, in every feasible instance, notify the designated congressional committees not less than 15 days prior to any formal negotiation for debt relief under this title.

(b) TRANSMITTAL OF TEXT OF AGREEMENTS.—The Secretary of State shall transmit to the designated congressional committees a copy of the text of any agreement with any foreign government which would result in any debt relief under this title no less than 30 days prior to its entry into force, together with a detailed justification of the interest of the United States in the proposed debt relief.

(c) ANNUAL REPORT.—The Secretary of State or the Secretary of the Treasury, as appropriate, shall submit to the designated congressional committees not later than February 1 of each year a consolidated statement of the budgetary implications of all debt relief agreements entered into force under this title during the preceding fiscal year.

(d) DESIGNATED CONGRESSIONAL COMMITTEES.—As used in this section, the term "designated congressional committees" means the Committee on Agriculture and the Committee on Foreign Affairs[31] of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

SEC. 619.[32] DEFINITION OF QUALIFIED DEBT.

As used in sections 616, 617, and 618, the term "qualified debt" means any obligation, or portion of such obligation, of an eligible

[30] 7 U.S.C. 1738q. Added by sec. 2 of Public Law 102–532 (106 Stat. 3509).

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

[32] 7 U.S.C. 1738r. Added by sec. 2 of Public Law 102–532 (106 Stat. 3509).

country to pay for purchases of United States agricultural commodities guaranteed by the Commodity Credit Corporation under export credit guarantee programs authorized pursuant to section 5(f) of the Commodity Credit Corporation Charter Act or section 4(b) of the Food for Peace Act of 1966—

(1) in which the Commodity Credit Corporation obtained a legal right or interest, as a result of assignment or subrogation, not later than September 1, 1992; and

(2) the payment of which obligation has been, not later than September 1, 1992, rescheduled in accordance with principles set forth in an Agreed Minute of the Paris Club.

Such term includes the obligation to pay any interest which was due or accrued not later than September 1, 1992, and unpaid as of the date of a debt sale pursuant to section 616 or a debt sale, reduction, or cancellation pursuant to section 617 (as the case may be).

(5) Urgent Assistance for Democracy in Panama Act of 1990

Partial text of Public Law 101–243 [H.R. 3952], 104 Stat. 7, approved February 14, 1990

AN ACT To authorize certain United States assistance and trade benefits for Panama and for other purposes.

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

SECTION 1. SHORT TITLE

This Act may be cited as the "Urgent Assistance for Democracy in Panama Act of 1990".

TITLE I—PANAMA

SEC. 101. IMMEDIATE UNITED STATES ASSISTANCE.

(a) ECONOMIC ASSISTANCE PROGRAMS.—

(1) AUTHORITY TO USE FUNDS FOR ECONOMIC ASSISTANCE.—

(A) IN GENERAL.—The President may use up to $32,000,000 of funds made available for economic assistance for Panama for fiscal year 1990 notwithstanding the provisions of law specified in subsection (c) of this section.

(B) DEOBLIGATION/REOBLIGATION AUTHORITY.—Funds may be made available for use under subparagraph (A) without regard to the limitation in section 515 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167), that funds deobligated under that section are available for reobligation only for countries within the same general region for which the funds were originally obligated.

(C) ECONOMIC ASSISTANCE DEFINED.—As used in subparagraph (A), the term "economic assistance" means assistance under part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following; relating to development and related economic assistance programs) and assistance under chapter 4 of part II of that Act (22 U.S.C. 2346 and following; relating to the economic support fund).

(2) AUTHORITY TO USE CERTAIN GUARANTEE AUTHORITIES.—The President—

(A) may use up to $10,000,000 of the guaranty authority available to carry out section 222 of the Foreign Assistance Act of 1961 (22 U.S.C. 2182; relating to the housing guaranty program), and

(B) may exercise the authorities of section 224 of that Act (22 U.S.C. 2184; relating to the trade credit insurance program for Central America),

with respect to Panama for fiscal year 1990 without regard to the provisions of law specified in subsection (c) of this section.

(b) LAW ENFORCEMENT ASSISTANCE.—

(1) ADMINISTRATION OF JUSTICE PROGRAM.—Up to $1,200,000 of the funds made available for Panama under subsection (a)(1) of this section may be used to provide—

(A) assistance authorized by subsection (b)(3) of section 534 of the Foreign Assistance Act of 1961 (22 U.S.C. 2346c; relating to the administration of justice program); and

(B) training for the Public Forces and other civilian law enforcement forces of Panama in human rights, civil law, and investigative and civilian law enforcement techniques, notwithstanding section 660 of that Act (22 U.S.C. 2420; relating to the prohibition on assistance for law enforcement forces).

All assistance provided for Panama under this paragraph shall be counted toward the limitation contained in the second sentence of section 534(e) of that Act[1] and toward the requirement of the second sentence of section 599G(c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167).[2]

(2) USE OF MILITARY ASSISTANCE PIPELINE FOR PANAMA TO PROCURE LAW ENFORCEMENT EQUIPMENT.—

(A) AUTHORITY.—Prior year military assistance funds that are obligated for Panama shall be available to finance the procurement of defense articles by law enforcement services (other than training) notwithstanding the provisions of law specified in subsection (c) of this section and section 660 of the Foreign Assistance Act of 1961 (22 U.S.C. 2420; relating to the prohibition on assistance for law enforcement forces).

(B) LIMITATIONS ON LETHAL EQUIPMENT.—Not more than $500,000 of the funds made available under subparagraph (A) may be used for the procurement of lethal equipment. Only lethal equipment that is appropriate for standard civilian law enforcement requirements may be procured with such funds.

(C) PRIOR YEAR MILITARY ASSISTANCE FUNDS DEFINED.—As used in subparagraph (A), the term "prior military assistance funds" means funds that were appropriated for a fiscal year prior to fiscal year 1990 to carry out chapter 2 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 and following; relating to the grant military assistance program) or section 23 of the Arms Export Control Act (22 U.S.C. 2763; relating to foreign military sales credits).

(3) CONGRESSIONAL NOTIFICATION REQUIREMENTS.—

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[1] The second sentence of sec. 534(e) of the Foreign Assistance Act of 1961 provided the following regarding funds for the Administration of Justice program:

"Of the funds made available to carry out this section, not more than $7,000,000 may be made available in fiscal year 1990 to carry out the provisions of subsection (b)(3) of this section.".

[2] The second sentence of sec. 599G(c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167), provided the following:

"Not less than $7,000,000 of the funds made available to carry out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961 for fiscal year 1990 shall be made available for the purposes of subsection 534(b)(3) of the Foreign Assistance Act of 1961.".

(A) IN GENERAL.—Except as provided in subparagraph (B) of this paragraph, the President shall notify the congressional committees specified in section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1) in accordance with the procedures applicable to reprogrammings under that section at least 15 days before—

(i) each obligation of funds under paragraph (1) of this subsection, and

(ii) each commitment to use funds under paragraph (2) of this subsection.

(B) EXCEPTION.—Such notification is not required with respect to—

(i) obligations under paragraph (1), and

(ii) commitments to use funds under paragraph (2) for the procurement of uniforms and communications equipment (and related defense services),

that occur prior to the end of the 15-day period beginning on the date of enactment of this Act to the extent that such obligations or commitments, as the case may be, were previously justified to the Congress.

(c) BROOKE-ALEXANDER AMENDMENT.—The provisions of law referred to in subsections (a)(1), (a)(2), and (b)(2)(A) of this section are sections 620(q) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(q); and section 518 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167), and the corresponding sections of foreign assistance appropriations Acts for prior fiscal years.

SEC. 102. RESUMPTION OF UNITED STATES ASSISTANCE: ANTINARCOTICS CERTIFICATION REQUIREMENTS.

Because the vital national interests of the United States so require and because the Endara government of Panama has indicated its willingness, and is taking steps, to cooperate fully with the United States to control narcotics production, trafficking, and money laundering, the requirements of paragraphs (1) and (5) of section 481(h) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(h)) shall cease to apply to Panama as of the date of enactment of this Act to the extent that those requirements became applicable to Panama by reason of the fact that the President did not make a certification with respect to Panama under paragraph (2) of that section at the time the international narcotics control strategy reports for 1988 and 1989 were submitted to the Congress pursuant to section 481(e) of that Act.

SEC. 103. RESUMPTION OF TRADE BENEFITS: ANTINARCOTICS CERTIFICATION REQUIREMENTS.

(a) RESUMPTION UPON DATE OF ENACTMENT.—Because the vital national interests of the United States so require and because the Endara government of Panama has indicated its willingness, and is taking steps, to cooperate fully with the United States to control narcotics production, trafficking, and money laundering, the conditions specified in section 802(b)(4)(B) of the Narcotics Control Trade Act (19 U.S.C. 2492(b)(4)(B)) shall be deemed to be satisfied as of the date of enactment of this Act with respect to the action

taken pursuant to section 802(a) of that Act that is described in subsection (b) of this section.

(b) SPECIFICATION OF BENEFITS.—The action referred to in subsection (a) is the denial to articles imported from Panama of preferential tariff treatment under the Generalized System of Preferences (19 U.S.C. 2461 and following) and the Caribbean Basic Economic Recovery Act (19 U.S.C. 2701 and following) pursuant to Presidential Proclamation 5779 of March 23, 1988.[3]

SEC. 104. REPORT ON PANAMANIAN BANK SECRECY LAWS.

(a) CONGRESSIONAL CONCERNS.—The Congress commends the Endara Government for its cooperation and assistance in freezing Panamanian bank accounts believed to be implicated in narcotics-related and other illegal financial transactions. The Congress remains concerned, however, that the current status of bank secrecy laws in Panama may lend itself to continued criminal abuse of those laws despite the best intentions of the Endara Government.

(b) REPORT.—Therefore, no later than April 15, 1990, the President shall submit a detailed report to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate on specific actions being undertaken by the Government of Panama to modify the existing bank secrecy regime in order to facilitate detection and prosecution of criminal activities, including—

(1) the modification of bank secrecy laws by the Government of Panama;

(2) the conclusion of an exchange-of-information agreement between the United States and Panama; and

(3) agreements entered into by the Government of Panama or in the process of negotiation that are designed to deter illegal financial transactions and to facilitate early detection and prosecution of such illegal activities.

TITLE II—EASTERN EUROPE AND YUGOSLAVIA

SEC. 201. ASSISTANCE TO SUPPORT TRANSITION TO DEMOCRACY.[4]

* * * * * * *

[3] For text of Presidential Proclamation 5779, see 53 F.R. 9850.
[4] For text, see page 119.

(6) Survival Assistance to Victims of Civil Strife in Central America

Public Law 101–215 [H.R. 3696], 103 Stat. 1852, approved December 11, 1989, as amended by Public Law 101–513 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991; H.R. 5114], 104 Stat. 1979, approved November 5, 1990

AN ACT To provide survival assistance to victims of civil strife in Central America.

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

SECTION 1. SURVIVAL ASSISTANCE

(a) AUTHORIZATION.—The Agency for International Development shall use unobligated funds made available pursuant to section 8(a) of Public Law 100–276 to provide medical care and other relief for noncombatant victims of strife in Central America. Such assistance shall be used to make available prosthetic devices and rehabilitation, provide medicines and immunizations, assist burn victims, help orphans, and otherwise provide assistance for noncombatants who have been physically injured or displaced by civil strife in Central America. Priority shall be given to those with the greatest needs for assistance.

(b) USE OF PVO'S AND INTERNATIONAL RELIEF ORGANIZATIONS.—Assistance pursuant to this section shall be provided only through nonpolitical private and voluntary organizations and international relief organizations. Preference in the distribution of such assistance shall be given to organizations presently providing similar services such as Catholic Relief Services, the International Committee of the Red Cross, CARE, the United Nations Children's Fund, the United Nations High Commission for Refugees, Partners of the Americas, and the Pan American Health Organization.

(c)[1] ASSISTANCE IN NICARAGUA. * * * [Repealed—1990]

[1] Sec. 577(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513; 104 Stat. 2044), repealed subsec. (c). It previously read as follows:

"(c) Not more than one-half of the assistance provided under this section may be provided through nonpolitical private and voluntary organizations and international relief organizations operating inside Nicaragua. None of the assistance pursuant to this section may be provided to or through the Government of Nicaragua.".

Sec. 577(a) of that Act also provided that:

"(a) None of the funds appropriated by this Act [Public Law 101–513] shall be provided for any member of the Nicaraguan resistance who has not disarmed and is not abiding by the terms of the cease-fire agreement and the addendums to the Toncontin Agreement signed on April 19, 1990.".

(7) Central American Peace Assistance

Public Law 100–276 [H.J.Res. 523], 102 Stat. 62, approved April 1, 1988

JOINT RESOLUTION To provide assistance and support for peace, democracy, and reconciliation in Central America.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. GENERAL POLICY.—It is the policy of the United States to advance peace and democracy in Central America, and to preserve and protect security interests in the region. Pursuant to that policy, it is the purpose of this joint resolution to assist in bringing peace and democracy to Central America, in a manner compatible with the Guatemala Peace Accord of August 7, 1987, the Declaration of the Presidents of the Central American Nations at San Jose, Costa Rica on January 16, 1988, the Agreement Between the Government of Nicaragua and the Nicaraguan Resistance signed March 23, 1988 at Sapoa, Nicaragua (hereinafter referred to as the "Sapoa Agreement") and consistent with the national security interests of the United States.

SEC. 2. CONSISTENCY WITH SAPOA AGREEMENT.—The assistance and support for which this joint resolution provides shall be administered consistent with the Sapoa Agreement. No authority contained in this joint resolution is intended to be exercised in any manner that might be determined by the Verification Commission established by the Sapoa Agreement to be inconsistent with that Agreement or any subsequent agreement between the Government of Nicaragua and the Nicaraguan democratic resistance.

SEC. 3. PURPOSE OF ADDITIONAL ASSISTANCE FOR THE NICARAGUAN DEMOCRATIC RESISTANCE.—(a) CONGRESSIONAL INTENT.—It is the intention of Congress in providing additional assistance to the Nicaraguan democratic resistance to reinforce the Central American peace process by supporting negotiations leading to a permanent negotiated ceasefire agreement. Such an agreement is seen by the Congress as an essential step towards the establishment of peace and democracy in Nicaragua. The Congress provides assistance under this section with the understanding and strong expectation that the Government of Nicaragua and the Nicaraguan democratic resistance will cease permanently offensive military activities against each other and engage in good faith negotiations towards a permanent ceasefire.

(b) TRANSFER AND USE.—(1) The President is authorized to transfer to the Agency for International Development $17,700,000 of unobligated funds from the appropriations accounts specified in section 6 to provide assistance for the Nicaraguan democratic resistance in accordance with this joint resolution. Funds so transferred shall remain available through September 30, 1988.

(2) The amount which is authorized to be transferred under paragraph (1) shall be reduced by the cost to the United States Government of any items or services described in subsection (c)(1) which were previously, specifically authorized by law for the Nicaraguan democratic resistance and which are delivered to the Nicaraguan democratic resistance under subsection (e).

(c) DESCRIPTION OF ASSISTANCE ALLOWED.—(1) As used in this section, "assistance" means only food, clothing, shelter, medical services, medical supplies, and payment for such items or services.

(2) The term "assistance" under this section also includes, to the extent consistent with the Sapoa Agreement, the use of not to exceed $1,500,000 of the funds made available under subsection (b) for the purchase of communications equipment.

(d) LIMITATIONS.—The amount of funds transferred under subsection (b) which is obligated each month for purchasing items and services described in subsection (c)(1)—

(1) for April and May 1988, shall not exceed $2,900,000, of which not less than $400,000 each month shall be available only for medical supplies and medical services; and

(2) for any month thereafter, shall not exceed $2,700,000,

except that each such amount for any month shall be reduced by the cost to the United States Government of the items and services described in subsection (c)(1)) (medical supplies and medical services in the case of the second amount specified in paragraph (1) which were previously, specifically authorized by law for the Nicaraguan democratic resistance and which are delivered to the Nicaraguan democratic resistance under subsection (e) during that month.

(e) TRANSPORTATION.—(1) The President shall transfer to the Agency for International Development, from unobligated funds from the appropriations accounts specified, in section 6, such funds as may be necessary to provide, to the extent consistent with the Sapoa Agreement, transportation for the assistance authorized by subsection (b), including rental and indemnification of aircraft, trucks or other vehicles, and transportation for the items and services described in paragraph (3) of this subsection.

(2) Transportation provided under this subsection may not be used to deliver any assistance for the Nicaraguan democratic resistance other than the assistance authorized by subsection (b) and the items and services described in paragraph (3) of this subsection.

(3) Transportation may be provided under this subsection for items and services described in subsection (c)(1) which were previously, specifically authorized by law for the Nicaraguan democratic resistance.

(f) PROHIBITIONS.—(1) Funds transferred by subsections (b) or (e) may not be obligated or expended to purchase aircraft or weapons, weapons systems, or ammunition or any other item or service not permitted under subsection (c) or to provide any transportation other than transportation permitted under subsection (e).

(2) Except for items delivered under subsection (e)(3), no item authorized by "Title II—Central America" in section 101(k) of the continuing appropriations resolution for the fiscal year 1987 (Public Laws 99–500 and 99–591) or section 111 of the joint resolution

making further continuing appropriations for the fiscal year 1988 (Public Law 100–202) may be provided to the Nicaragua democratic resistance.

(g) ASSISTANCE FOR YATAMA.—(1) In order to support all elements of the Nicaraguan democratic resistance, assistance authorized by subsection (b) (including the cost of the United States Government of items and services delivered under subsection (e)(3)) in the amount of $2,190,000 shall be provided only to the Indian resistance force known as Yatama.

(2) The Agency for International Development shall ensure that assistance under this subsection for Yatama is provided consistent with the Preliminary Accord signed by Yatama and the Government of Nicaragua on February 2, 1988, and any subsequent agreement based on that Accord.

SEC. 4. DIRECTION, MANAGEMENT AND DELIVERY.—(a) DELIVERY OF ASSISTANCE.—(1) The Agency for International Development shall direct, manage and provide for the delivery of assistance and support to the Nicaraguan democratic resistance through neutral organizations consistent with the Sapoa Agreement and as authorized by this joint resolution.

(2) The President shall transfer not to exceed $2,500,000 from the unobligated funds in the appropriations accounts specified in section 6 for "Operating Expenses of the Agency for International Development" to meet the necessary administrative expenses to carry out the purposes of this joint resolution.

(b) INAPPLICABILITY OF CERTAIN PROHIBITIONS.—Prohibitions on the furnishing of foreign assistance to Nicaragua shall not be construed to apply to the provision within Nicaragua of the assistance authorized by this joint resolution.

(c) ACCOUNTABILITY STANDARDS, PROCEDURES, AND CONTROLS.—In implementing this joint resolution, the Agency for International Development shall adopt standards, procedures, and controls for the accountability of funds comparable to those applicable with respect to the assistance for the Nicaraguan democratic resistance provided under section 111 of the joint resolution making further continuing appropriations for the fiscal year 1988 (Public Law 100–202).

(d) INTERAGENCY COOPERATION.—All Government agencies shall cooperate with the Agency for International Development to ensure the orderly, effective direction, management, and delivery by the Agency of assistance for the Nicaraguan democratic resistance. Such cooperation shall include detailing to the Agency, on a reimbursable basis, such personnel as the Agency, with the approval of the President, may request.

(e) SUPPLEMENTAL AUTHORITIES.—In addition to the authorities otherwise available by law to the Agency for International Development, in carrying out this joint resolution, the Agency for International Development may exercise the same authorities, including authorities relating to procurement and expenditure of Government funds other than confidential funds, as the agency administering the assistance provided pursuant to section 111 of the joint resolution making further continuing appropriations for the fiscal year 1988 (Public Law 100–202) could exercise with respect to provision of that assistance.

SEC. 5. GENERAL AUTHORITIES AND LIMITATIONS.—(a) REQUIREMENTS DEEMED SATISFIED.—The requirements, terms and conditions of section 104 of the Intelligence Authorization Act, Fiscal Year 1988 (Public Law 100–178), section 8144 of the Department of Defense Appropriations Act, 1988 (as contained in section 101(b) of Public Law 100–202), section 10 of Public Law 91–672, section 502 of the National Security Act of 1947, section 15(a) of the State Department Basic Authorities Act of 1956, and any other provision of law shall be deemed to have been met for the transfer and use, consistent with the provisions of this joint resolution, of the funds made available by this joint resolution.

(b) CONTINUATION OF LIMITATIONS.—Sections 203(e), 204(b), 207, 209(b), 209(c), and 216 in "Title II—Central America" in section 101(k) of the continuing appropriations resolution for the fiscal year 1987 (Public Laws 99–500 and 99–591), shall apply with respect to funds made available by this joint resolution, except that section 216 shall not apply with respect to personnel of the Agency for International Development or the Department of State.

SEC. 6. DEFENSE APPROPRIATIONS ACCOUNTS.—The appropriations accounts to which this resolution refers are the following accounts in the Department of Defense Appropriations Act, 1986, as contained in section 101(b) of the further continuing appropriations resolution for the fiscal year 1986 (Public Law 99–190):

(1) Missile Procurement, Army;
(2) Other, Procurement, Army;
(3) Other Procurement, Navy;
(4) Missile Procurement, Air Force;
(5) Aircraft Procurement, Air Force; and
(6) Weapons Procurement, Navy;

except that section 1351 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99–661) shall apply.

SEC. 7. AUDIT OF FUNDS.—The Comptroller General shall conduct an independent audit of funds expended in the provision of assistance and support under this joint resolution.

SEC. 8. CHILDREN'S SURVIVAL ASSISTANCE.—(a)[1] AUTHORIZATION.—The President shall transfer to the Agency for International Development $17,700,000 of unobligated funds from the appropriations accounts specified in section 6 to provide medical care and other relief for children who are victims of the Nicaraguan civil strife. Such assistance shall be used to make available prosthetic devices and rehabilitation, provide medicines and immunizations, assist burn victims, help children who have been orphaned, and otherwise provide assistance for children who have been physically injured or displaced by the Nicaraguan civil strife. Priority shall be given to those children with the greatest needs for assistance. Funds transferred pursuant to this subsection shall remain available until expended.

[1] Sec. 1 of Public Law 101–215 (103 Stat. 1852) provided the following:
"(a) AUTHORIZATION.—The Agency for International Development shall use unobligated funds made available pursuant to section 8(a) of Public Law 100–276 to provide medical care and other relief for noncombatant victims of civil strife in Central America. Such assistance shall be used to make available prosthetic devices and rehabilitation, provide medicines and immunizations, assist burn victims, help orphans, and otherwise provide assistance for noncombatants who have been physically injured or displaced by civil strife in Central America. Priority shall be given to those with the greatest needs for assistance.".

(b) USE OF PVO'S AND INTERNATIONAL RELIEF ORGANIZATIONS.—Assistance pursuant to this section shall be provided only through nonpolitical private and voluntary organizations and international relief organizations. Preference in the distribution of such assistance shall be given to organizations presently providing similar services such as the Catholic Relief Services, International Committee of the Red Cross, CARE, United Nations Children's Fund, United Nations High Commissioner for Refugees, Partners of the Americas, and the Pan-American Health Organization.

(c) CHILDREN IN NICARAGUA.—At least one-half of the assistance provided under this section shall be provided through nonpolitical private and voluntary organizations and international relief organizations operating inside Nicaragua. None of this assistance may be provided to or through the Government of Nicaragua.

SEC. 9. VERIFICATION COMMISSION.—The President shall transfer to the Agency for International Development $10,000,000 of unobligated funds from the appropriations accounts specified in section 6 for periodic payments to support the activities of the Verification Commission established by the Sapoa Agreement. Funds transferred pursuant to this section shall remain available until expended.

(8) Latin American Development Act, as amended

Public Law 86–735 [H.R. 13021], 74 Stat. 869, approved September 8, 1960; as amended by Public Law 87–195 [Foreign Assistance Act of 1961, S. 1983], 75 Stat. 424, approved September 4, 1961; and by Public Law 88–205 [Foreign Assistance Act of 1963, H.R. 7885], 77 Stat. 379, approved December 16, 1963

AN ACT To provide for assistance in the development of Latin America and in the reconstruction of Chile, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Latin American Development Act".[1]

STATEMENT OF POLICY

Section 1.[2] (a) It is the sense of the Congress that—

(1) the historic, economic, political, and geographic relationships among the American Republics are unique and of special significance and, as appropriate, should be so recognized in future legislation;

(2) although governmental forms differ among the American Republics, the peoples of all the Americas are dedicated to the creation and maintenance of governments which will promote individual freedom;

(3) the interests of the American Republics are so interrelated that sound social and economic progress in each is of importance to all and that lack of it in any American Republic may have serious repercussions in others;

(4) for the peoples of Latin America to continue to progress within the framework of our common heritage of democratic ideals, there is a compelling need for the achievement of social and economic advance adequate to meet the legitimate aspirations of the individual citizens of the countries of Latin America for a better way of life;

(5) there is a need for a plan of hemispheric development, open to all American Republics which cooperate in such plan, based upon a strong production effort, the expansion of foreign trade, the creation and maintenance of internal financial stability, the growth of free economic and social institutions, and the development of economic cooperation, including all possible steps to establish and maintain equitable rates of exchange and to bring about the progressive elimination of trade barriers;

(6) mindful of the advantages which the United States has enjoyed through the existence of a large domestic market with

[1] Sec. 401(a) of the FA Act of 1963 (Public Law 88–205) inserted the words "That this Act may be cited as the 'Latin American Development Act'.".
[2] 22 U.S.C. 1942.

no internal trade barriers, and believing that similar advantages can accrue to all countries, it is the hope of the people of the United States that all American Republics will jointly exert sustained common efforts which will speedily achieve that economic cooperation in the Western Hemisphere which is essential for lasting peace and prosperity; and

(7) accordingly, it is declared to be the policy of the people of the United States to sustain and strengthen principles of individual liberty, free institutions, private enterprise, and genuine independence in the Western Hemisphere through cooperation with all American Republics which participate in a joint development program based upon self-help and mutual efforts.

(b) In order to carry forward the above policy, the Congress hereby—

(1) urges the President through our constitutional processes to develop cooperative programs on a bilateral or multilateral basis which will set forth specific plans of action designed to foster economic progress and improvements in the welfare and level of living of all the peoples of the American Republics on the basis of joint aid, mutual effort, and common sacrifice;

(2) proposes the development of workable procedures to expand hemispheric trade and to moderate extreme price fluctuations in commodities which are of exceptional importance in the economies of the American Republics, and encourages the development of regional economic cooperation among the American Republics;

(3) supports the development of a more accurate and sympathetic understanding among the peoples of the American Republics through a greater interchange of persons, ideas, techniques, and educational, scientific, and cultural achievements;

(4) supports the strengthening of free democratic trade unions to raise standards of living through improved management-labor relations;

(5) favors the progressive development of common standards with respect to the rights and the responsibilities of private investment with flows across national boundaries within the Western Hemisphere;

(6) supports the consolidation of the public institutions and agencies of inter-American cooperation, insofar as feasible, within the structure of the Organization of American States and the strengthening of the personnel resources and authority of the Organization in order that it may play a role of increasing importance in all aspects of hemispheric cooperation; and

(7) declares that it is prepared to give careful and sympathetic consideration to programs which the President may develop for the purpose of promoting these policies.

AUTHORIZATION

Sec. 2.[3] In order to carry out the purposes of section 1 of this Act, there is hereby authorized to be appropriated to the President

[3] 22 U.S.C. 1943.

not to exceed $680,000,000,[4] which shall remain available until expended, and which the President may use, subject to such further legislative provisions as may be enacted, in addition to other funds available for such purposes, on such terms and conditions as he may specify: *Provided,* That none of the funds made available pursuant to this section shall be used to furnish assistance to any country in Latin America being subjected to economic or diplomatic sanctions by the Organization of American States. The Secretary of State shall keep the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs[5] of the House currently informed about plans and programs for the utilization of such funds.

SPECIAL AUTHORIZATION FOR CHILEAN RECONSTRUCTION

Sec. 3.[6] There is hereby authorized to be appropriated to the President not to exceed $100,000,000,[7] which shall remain available until expended, for use, in addition to other funds available for such purposes, in the reconstruction and rehabilitation of Chile on such terms and conditions as the President may specify.

GENERAL PROVISIONS[8]

Sec. 4.[9] (a) Funds appropriated under sections 2 and 3 of this Act may be used for assistance under this Act pursuant to such provisions applicable to the furnishing of such assistance contained in any successor Act to the Mutual Security Act of 1954, as amended, as the President determines to be necessary to carry out the purposes for which such funds are appropriated.

(b) Of the funds appropriated under section 2 of this Act not more than $800,000 shall be available only for assisting in transporting to and settling in Latin America selected immigrants from that portion of the Ryukyuan Archipelago under United States administration.

[4] Sec. 401(b) of the FA Act of 1963 (Public Law 88–205), substituted "$680,000,000" for "$500,000,000". Public Law 87–41, approved May 27, 1961, appropriated $500 million for the Inter-American Social and Economic Cooperation Program to remain available until expended.

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

[6] 22 U.S.C. 1944.

[7] Public Law 87–41 appropriated "$100,000,000, to remain available until expended."

[8] Sec. 4 and title "GENERAL PROVISIONS" were added by sec. 706 of the FA Act of 1961 (Public Law 87–195; 75 Stat. 724).

[9] 22 U.S.C. 1945.

e. Assistance to the Middle East [1]

(1) Middle East Peace Commitments Act of 2002

Title VI, subtitle A of Public Law 107–228 [Foreign Relations Authorization Act, Fiscal Year 2003; H.R. 1646], 116 Stat. 1350, approved September 30, 2002

TITLE VI—MISCELLANEOUS PROVISIONS

Subtitle A—Middle East Peace Commitments Act of 2002

SEC. 601. SHORT TITLE.

This subtitle may be cited as the "Middle East Peace Commitments Act of 2002".

SEC. 602. FINDINGS.

Congress makes the following findings:

(1) In 1993, the Palestine Liberation Organization (in this subtitle referred to as the "PLO") made the following commitments in an exchange of letters with the Prime Minister of Israel:

(A) Recognition of the right of the State of Israel to exist in peace and security.

(B) Acceptance of United Nations Security Council Resolutions 242 and 338.

(C) Resolution of all outstanding issues in the conflict between the two sides through negotiations and exclusively peaceful means.

(D) Renunciation of the use of terrorism and all other acts of violence and responsibility over all PLO elements and personnel in order to assure their compliance, prevent violations, and discipline violators.

(2) The Palestinian Authority, the governing body of autonomous Palestinian territories, was created as a result of agreements between the PLO and the State of Israel that are a direct outgrowth of the commitments made in 1993.

(3) Congress has provided authorities to the President to suspend certain statutory restrictions relating to the PLO, subject to Presidential certifications that the PLO has continued to abide by commitments made.

SEC. 603. REPORTS.

(a) IN GENERAL.—The President shall, at the times specified in subsection (b), transmit to the appropriate congressional committees a report on compliance by the PLO or the Palestinian Authority, as appropriate, with each of the commitments specified in section 602(1). The report shall include, with respect to each such

[1] See also Syria Accountability and Lebanese Sovereignty Restoration Act of 2003 (Public Law 108–175), in *Legislation on Foreign Relations Through 2004*, vol. I–A.

commitment, the determination of the President as to whether or not the PLO or the Palestinian Authority, as appropriate, has complied with that commitment during the period since the submission of the preceding report or, in the case of the initial report, during the preceding six-month period. In the event that the President imposed one or more sanctions under section 604 during the period covered by the report, the report shall include a description of each such sanction imposed.

(b) TRANSMISSION.—The initial report required under subsection (a) shall be transmitted not later than 60 days after the date of enactment of this Act. Each subsequent report shall be submitted on the date on which the President is next required to submit a report under the P.L.O. Commitments Compliance Act of 1989 (title VIII of Public Law 101–246) and may be combined with such report.

SEC. 604. IMPOSITION OF SANCTIONS.

(a) IN GENERAL.—If, in any report transmitted pursuant to section 603, the President determines that the PLO or the Palestinian Authority, as appropriate, has not complied with each of the commitments specified in section 602(1), or if the President fails to make a determination with respect to such compliance, the President shall, for a period of time not less than the period described in subsection (b), impose one or more of the following sanctions:

(1) DENIAL OF VISAS TO PLO AND PALESTINIAN AUTHORITY OFFICIALS.—The Secretary shall direct consular officers not to issue a visa to any member of the PLO or any official of the Palestinian Authority.

(2) DOWNGRADE IN STATUS OF PLO OFFICE IN THE UNITED STATES.—Notwithstanding any other provision of law, the President shall withdraw or terminate any waiver by the President of the requirements of section 1003 of the Foreign Relations Authorization Act of 1988 and 1989 (22 U.S.C. 5202) (prohibiting the establishment or maintenance of a Palestinian information office in the United States), and such section shall apply so as to prohibit the operation of a PLO or Palestinian Authority office in the United States from carrying out any function other than those functions carried out by the Palestinian information office in existence prior to the Oslo Accords.

(3) DESIGNATION AS A FOREIGN TERRORIST ORGANIZATION.—The Secretary shall designate the PLO, or one or more of its constituent groups (including Fatah and Tanzim) or groups operating as arms of the Palestinian Authority (including Force 17), as a foreign terrorist organization, in accordance with section 219(a) of the Immigration and Nationality Act.

(4) PROHIBITION ON UNITED STATES ASSISTANCE TO THE WEST BANK AND GAZA.—United States assistance (except humanitarian assistance) may not be provided to programs or projects in the West Bank or Gaza.

(b) DURATION OF SANCTIONS.—The period of time referred to in subsection (a) is the period of time commencing on the date that the report pursuant to section 603 was transmitted and ending on the later of—

(1) the date that is 180 days after such date; or

(2) the date that the next report under section 603 is required to be transmitted.

(c) WAIVER AUTHORITY.—The President may waive any sanction imposed under subsection (a) if the President determines that such a waiver is in the national security interest of the United States. The President shall report such a determination to the appropriate congressional committees.

(2) Middle East Peace Facilitation Act of 1995

Title VI of Public Law 104–99 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996, H.R. 1868, enacted by reference in sec. 301 of Public Law 104–99; H.R. 2880], 110 Stat. 26, approved January 26, 1996; enacted again as Public Law 104–107 [H.R. 1868], 110 Stat. 704, approved February 12, 1996

TITLE VI—MIDDLE EAST PEACE FACILITATION ACT OF 1995

SHORT TITLE

SEC. 601. This title may be cited as the "Middle East Peace Facilitation Act of 1995".

FINDINGS

SEC. 602. The Congress finds that—

(1) the Palestine Liberation Organization (hereafter the "P.L.O.") has recognized the State of Israel's right to exist in peace and security, accepted United Nations Security Council Resolutions 242 and 338, committed itself to the peace process and peaceful coexistence with Israel, free from violence and all other acts which endanger peace and stability, and assumed responsibility over all P.L.O. elements and personnel in order to assure their compliance, prevent violations, and discipline violators;

(2) Israel has recognized the P.L.O. as the representative of the Palestinian people;

(3) Israel and the P.L.O. signed a Declaration of Principles on Interim Self-Government Arrangements (hereafter the "Declaration of Principles") on September 13, 1993 at the White House;

(4) Israel and the P.L.O. signed an Agreement on the Gaza Strip and the Jericho Area (hereafter the "Gaza-Jericho Agreement") on May 4, 1994 which established a Palestinian Authority for the Gaza and Jericho areas;

(5) Israel and the P.L.O. signed an Agreement on Preparatory Transfer of Powers and Responsibilities (hereafter the "Early Empowerment Agreement") on August 29, 1994 which provided for the transfer to the Palestinian Authority of certain powers and responsibilities in the West Bank outside of the Jericho Area;

(6) under the terms of the Israeli-Palestinian Interim Agreement on the West Bank and Gaza (hereafter the "Interim Agreement) signed on September 28, 1995, the Declaration of Principles, the Gaza-Jericho Agreement and the Early Empowerment Agreement, the powers and responsibilities of the Palestinian Authority are to be assumed by an elected Palestinian Council with jurisdiction in the West Bank and Gaza Strip in accordance with the Interim Agreement;

(7) permanent status negotiations relating to the West Bank and Gaza Strip are scheduled to begin by May 1996;

(8) the Congress has, since the conclusion of the Declaration of Principles and the P.L.O.'s renunciation of terrorism, provided authorities to the President to suspend certain statutory restrictions relating to the P.L.O., subject to Presidential certifications that the P.L.O. has continued to abide by commitments made in and in connection with or resulting from the good faith implementation of, the Declaration of Principles;

(9) the P.L.O. commitments relevant to Presidential certifications have included commitments to renounce and condemn terrorism, to submit to the Palestinian National Council for former approval the necessary changes to those articles of the Palestinian Covenant which call for Israel's destruction, and to prevent acts of terrorism and hostilities against Israel; and

(10) the United States is resolute in its determination to ensure that in providing assistance to Palestinians living under the jurisdiction of the Palestinian Authority or elsewhere, the beneficiaries of such assistance shall be held to the same standard of financial accountability and management control as any other recipient of United States assistance.

SENSE OF CONGRESS

SEC. 603. It is the sense of the Congress that the P.L.O. must do far more to demonstrate an irrevocable denunciation of terrorism and ensure a peaceful settlement of the Middle East dispute, and in particular it must—

(1) submit to the Palestinian National Council for formal approval the necessary changes to those articles of the Palestinian National Covenant which call for Israel's destruction;

(2) make greater efforts to pre-empt acts of terror, discipline violators and contribute to stemming the violence that has resulted in the deaths of over 140 Israeli and United States citizens since the signing of the Declaration of Principles;

(3) prohibit participation in its activities and in the Palestinian Authority and its successors by any groups or individuals which continue to promote and commit acts of terrorism;

(4) cease all anti-Israel rhetoric, which potentially undermines the peace process;

(5) confiscate all unlicensed weapons;

(6) transfer and cooperate in transfer proceedings relating to any person accused by Israel to acts of terrorism; and

(7) respect civil liberties, human rights and democratic norms.

AUTHORITY TO SUSPEND CERTAIN PROVISIONS

SEC. 604. (a) IN GENERAL.—Subject to subsection (b), beginning on the date of enactment of this Act and for eighteen months thereafter, the President may suspend for a period of not more than 6 months at a time any provision of law specified in subsection (d). Any such suspension shall cease to be effective after 6 months, or at such earlier date as the President may specify.

(b) CONDITIONS.—

(1)[1] CONSULTATIONS.—Prior to each exercise of the authority provided in subsection (a) or certification pursuant to subsection (c), the President shall consult with the relevant congressional committees. The President may not exercise that authority or make such certification until 30 days after a written policy justification is submitted to the relevant congressional committees.

(2) PRESIDENTIAL CERTIFICATION.—The President may exercise the authority provided in subsection (a) only if the President certifies to the relevant congressional committees each time he exercises such authority that—

(A) it is in the national interest of the United States to exercise such authority;

(B) the P.L.O., the Palestinian Authority, and successor entities are complying with all the commitments described in paragraph (4); and

(C) funds provided pursuant to the exercise of this authority and the authorities under section 583(a) of Public Law 103–236 and section 3(a) of Public Law 103–125 have been used for the purposes for which they were intended.

(3) REQUIREMENT FOR CONTINUING P.L.O. COMPLIANCE.—(A) The President shall ensure that P.L.O. performance is continuously monitored and if the President at any time determines that the P.L.O. has not continued to comply with all the commitments described in paragraph (4), he shall so notify the relevant congressional committees and any suspension under subsection (a) of a provision of law specified in subsection (d) shall cease to be effective.

(B) Beginning six months after the date of enactment of this Act, if the President on the basis of the continuous monitoring of the P.L.O.'s performance determines that the P.L.O. is not complying with the requirements described in subsection (c), he shall so notify the relevant congressional committees and no assistance shall be provided pursuant to the exercise by the President of the authority provided by subsection (a) until such time as the President makes the certification provided for in subsection (c).

(4) P.L.O. COMMITMENTS DESCRIBED.—The commitments referred to in paragraphs (2)(B) and (3)(A) are the commitments made by the P.L.O—

(A) in its letter of September 9, 1993, to the Prime Minister of Israel; in its letter of September 9, 1993, to the Foreign Minister of Norway to—

(i) recognize the right of the State of Israel to exist in peace and security;

(ii) accept United Nations Security Council Resolutions 242 and 338;

(iii) renounce the use of terrorism and other acts of violence;

[1] Responsibilities delegated to the President in paras. (1) and (5) of subsec. (b) were redelegated by the President to the Secretary of State in a Presidential memorandum of February 29, 1996 (61 F.R. 9889).

(iv) assume responsibility over all P.L.O. elements and personnel in order to assure their compliance, prevent violations and discipline violators;

(v) call upon the Palestinian people in the West Bank and Gaza Strip to take part in the steps leading to the normalization of life, rejecting violence and terrorism, and contributing to peace and stability; and

(vi) submit to the Palestine National Council for formal approval the necessary changes to the Palestinian National Covenant eliminating calls for Israel's destruction, and

(B) in, and resulting from, the good faith implementation of the Declaration of Principles, including good faith implementation of subsequent agreements with Israel, with particular attention to the objective of preventing terrorism, as reflected in the provisions of the Interim Agreement concerning—

(i) prevention of acts of terrorism and legal measures against terrorists, including the arrest and prosecution of individuals suspected of perpetrating acts of violence and terror;

(ii) abstention from and prevention of incitement, including hostile propaganda;

(iii) operation of armed forces other than the Palestinian Police;

(iv) possession, manufacture, sale, acquisition or importation of weapons;

(v) employment of police who have been convicted of serious crimes or have been found to be actively involved in terrorist activities subsequent to their employment;

(vi) transfers to Israel of individuals suspected of, charged with, or convicted of an offense that falls within Israeli criminal jurisdiction;

(vii) cooperation with the government of Israel in criminal matters, including cooperation in the conduct of investigations; and

(viii) exercise of powers and responsibilities under the agreement with due regard to internationally accepted norms and principles of human rights and the rule of law.

(5)[1] POLICY JUSTIFICATION.—As part of the President's written policy justification to be submitted to the relevant Congressional Committees pursuant to paragraph (1), the President will report on—

(A) the manner in which the P.L.O. has complied with the commitments specified in paragraph (4), including responses to individual acts of terrorism and violence, actions to discipline perpetrators of terror and violence, and actions to preempt acts of terror and violence;

(B) the extent to which the P.L.O. has fulfilled the requirements specified in subsection (c);

(C) actions that the P.L.O. has taken with regard to the Arab League boycott of Israel;

(D) the status and activities of the P.L.O. office in the United States;

(E) all United States assistance which benefits, directly or indirectly, the projects, programs, or activities of the Palestinian Authority in Gaza, Jericho, or any other area it may control, since September 13, 1993, including—

(i) the obligation and disbursal of such assistance, by project, activity, and date, as well as by prime contractor and all subcontractors;

(ii) the organizations or individuals responsible for the receipt and obligation of such assistance;

(iii) the intended beneficiaries of such assistance; and

(iv) the amount of international donor funds that benefit the P.L.O. or the Palestinian Authority in Gaza, Jericho, or any other area the P.L.O. or the Palestinian Authority may control, and to which the United States is a contributor; and

(F) statements by senior officials of the P.L.O., the Palestinian Authority, and successor entities that question the right of Israel to exist or urge armed conflict with or terrorism against Israel or its citizens, including an assessment of the degree to which such statements reflect official policy of the P.L.O., the Palestinian Authority, or successor entities.

(c) REQUIREMENT FOR CONTINUED PROVISION OF ASSISTANCE.—Six months after the enactment of this Act, United States assistance shall not be provided pursuant to the exercise by the President of the authority provided by subsection (a), unless and until the President determines and so certifies to the Congress that—

(1) if the Palestinian Council has been elected and assumed its responsibilities, it has, within 2 months, effectively disavowed and thereby nullified the articles of the Palestine National Covenant which call for Israel's destruction, unless the necessary changes to the Covenant have already been approved by the Palestine National Council;

(2) the P.L.O., the Palestinian Authority, and successor entities have exercised their authority resolutely to establish the necessary enforcement institutions; including laws, police, and a judicial system, for apprehending, transferring, prosecuting, convicting, and imprisoning terrorists;

(3) the P.L.O., has limited participation in the Palestinian Authority and its successors to individuals and groups that neither engage in nor practice terrorism or violence in the implementation of their political goals;

(4) the P.L.O., the Palestinian Authority, and successor entities have not provided any financial or material assistance or training to any group, whether or not affiliated with the P.L.O., to carry out actions inconsistent with the Declaration of Principles, particularly acts of terrorism against Israel;

(5) the P.L.O., the Palestinian Authority, or successor entities have cooperated in good faith with Israeli authorities in—

(A) the preemption of acts of terrorism;

(B) the apprehension, trial, and punishment of individuals who have planned or committed terrorist acts subject to the jurisdiction of the Palestinian Authority or any successor entity; and

(C) the apprehension of and transfer to Israeli authorities of individuals suspected of, charged with, or convicted of, planning or committing terrorist acts subject to Israeli jurisdiction in accordance with the specific provisions of the Interim Agreement;

(6) the P.L.O., the Palestinian Authority, and successor entities have exercised their authority resolutely to enact and implement laws requiring the disarming of civilians not specifically licensed to possess or carry weapons;

(7) the P.L.O., the Palestinian Authority, and successor entities have not funded, either partially or wholly, or have ceased funding, either partially or wholly, any office, or other presence of the Palestinian Authority in Jerusalem unless established by specific agreement between Israel and the P.L.O., the Palestinian Authority, or successor entities;

(8) the P.L.O., the Palestinian Authority, and successor entities are cooperating fully with the Government of the United States on the provision of information on United States nationals known to have been held at any time by the P.L.O. or factions thereof; and

(9) the P.L.O., the Palestinian Authority, and successor entities have not, without the agreement of the Government of Israel, taken any steps that will change the status of Jerusalem or the West Bank and Gaza Strip, pending the outcome of the permanent status negotiations.

(d)[2] PROVISIONS THAT MAY BE SUSPENDED.—The provisions that may be suspended under the authority of subsection (a) are the following:

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[2] Sec. 3 of the Middle East Peace Facilitation Act of 1993, as amended (Public Law 103–125; 107 Stat. 1309), authorized the President to suspend certain provisions of law, including sec. 307 of this Act, as they applied to the P.L.O. or entities associated with it if certain conditions were met and the President so certified and consulted with relevant congressional committees. This authority was continued in this Act, and in the Middle East Peace Facilitation Act of 1995, (title VI of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996; Public Law 104–107).

The President issued certifications, as provided for in the 1993, 1994, and 1995 Acts, in Presidential Determination No. 94–13 of January 14, 1994 (59 F.R. 4777), which was extended until January 1, 1995, by Presidential Determination No. 94–30 of June 30, 1994 (59 F.R. 35607); until July 1, 1995, by Presidential Determination No. 95–12 of December 31, 1994 (60 F.R. 2673); until August 15, 1995, by Presidential Determination No. 95–31 of July 2, 1995 (60 F.R. 35827); until October 1, 1995, by Presidential Determination No. 95–36 of August 14, 1995 (60 F.R. 44725); until November 1, 1995, by Presidential Determination No. 95–50 of September 30, 1995 (60 F.R. 53093); until December 31, 1995, by Presidential Determination No. 96–5 of November 13, 1995 (60 F.R. 57821); until March 31, 1996, by Presidential Determination No. 96–8 of January 4, 1996 (61 F.R. 2889); until June 15, 1996, by Presidential Determination No. 96–20 of April 1, 1996 (61 F.R. 26019); until August 12, 1996, by Presidential Determination No. 96–32 of June 14, 1996 (61 F.R. 32629); until February 12, 1997, by Presidential Determination No. 96–41 of August 12, 1996 (61 F.R. 43137); and until August 12, 1997, by Presidential Determination No. 97–17 of February 21, 1997 (62 F.R. 9903).

Authority to waive certain provisions is continued in general provisions of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447); see secs. 534(d), 544, 547, and 550. See also sec. 555, restricting aid unless the Secretary of State certifies that certain conditions have been met pertaining to Palestinian statehood, sec. 558, prohibiting assistance to the Palestinian Broadcasting Corporation, and sec. 559, West Bank and Gaza Program.

On December 5, 1997, the President waived the provisions of sec. 1003 of the Anti-Terrorism Act of 1987 (Public Law 100–204) through June 4, 1998 (Presidential Determination No. 98–

Continued

(1) Section 307 of the Foreign Assistance Act of 1961 (22 U.S.C. 2227)[3] as it applies with respect to the P.L.O. or entities associated with it.

(2) Section 114 of the Department of State Authorization Act, fiscal years 1984 and 1985 (22 U.S.C. 287e note)[4] as it applies with respect to the P.L.O. or entities associated with it.

(3) Section 1003 of the Foreign Relations Authorization Act, fiscal years 1988 and 1989 (22 U.S.C. 5202).[5]

(4) Section 37 of the Bretton Woods Agreement Act (22 U.S.C. 286W)[6] as it applies on the granting to the P.L.O. of observer status or other official status at any meeting sponsored by or associated with the International Monetary Fund. As used in this paragraph, the term "other official status" does not include membership in the International Monetary Fund.

(e) DEFINITIONS.—As used in this title:

(1) RELEVANT CONGRESSIONAL COMMITTEES.—The term "relevant congressional committees" mean—

(A) the Committee on International Relations, the Committee on Banking and Financial Services, and the Committee on Appropriations of the House of Representatives; and

(B) the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

(2) UNITED STATES ASSISTANCE.—The term "United States assistance" means any form of grant, loan, loan guarantee, credit, insurance, in kind assistance, or any other form of assistance.

TRANSITION PROVISION

SEC. 605. (a) IN GENERAL.—Section 583(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236) is amended by striking "November 1, 1995" and inserting "January 1, 1996".[7]

(b) CONSULTATION.—For purposes of any exercise of the authority provided in section 583(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236) prior to November 15, 1995, the written policy justification dated June 1, 1995, and submitted to the Congress in accordance with section 583(b)(1) of such Act, and the consultations associated with such

8; 62 F.R. 66255); further waived through November 26, 1998 (Presidential Determination No. 98–29; June 3, 1998; 63 F.R. 32711); through May 24, 1999 (Presidential Determination No. 98–5; November 25, 1998; 63 F.R. 68145); through October 21, 1999 (Presidential Determination No. 99–25; May 24, 1999; 64 F.R. 29537); through April 21, 2000 (Presidential Determination 00–2; October 21, 1999; 64 F.R. 58755); through October 21, 2000 (Presidential Determination No. 2000–19; April 21, 2000; 65 F.R. 24852); through October 17, 2001 (Presidential Determination No. 01–13; April 17, 2001; 66 F.R. 20585); through April 16, 2002 (Presidential Determination No. 2002–03; October 16, 2001; 66 F.R. 53505); through October 16, 2002 (Presidential Determination No. 2002–14; April 16, 2002; 67 F.R. 20427); through April 16, 2003 (Presidential Determination No. 03–03; October 16, 2002; 67 F.R. 65471); through October 16, 2003 (Presidential Determination No. 2003–20; April 16, 2003; 68 F.R. 20327); through April 14, 2004 (Presidential Determination No. 2004–04; October 14, 2003; 68 F.R. 60841); through October 14, 2004 (Presidential Determination No. 2004–28; April 14, 2004; 69 F.R. 21679); and through April 14, 2005 (Presidential Determination No. 2005–02; October 14, 2004; 69 F.R. 62795).

[3] For text, see *Legislation on Foreign Relations Through 2004*, vol. I–A.

[4] For text, see *Legislation on Foreign Relations Through 2004*, vol. II.

[5] For text, see *Legislation on Foreign Relations Through 2004*, vol. II.

[6] For text, see *Legislation on Foreign Relations Through 2004*, vol. III.

[7] For amended text, see page 305.

policy justification, shall be deemed to satisfy the requirements of section 583(b)(1) of such Act.

REPORTING REQUIREMENT

SEC. 606. Section 804(b) of the P.L.O. Commitments Compliance Act of 1989 (title VIII of Public Law 101–246) is amended—[8]

(1) in the matter preceding paragraph (1), by striking "section (3)(b)(1) of the Middle East Peace Facilitation Act of 1994" and inserting "section 604(b)(1) of the Middle East Peace Facilitation Act of 1995"; and

(2) in paragraph (1), by striking "section (4)(a) of the Middle East Peace Facilitation Act of 1994 (Oslo commitments)" and inserting "section 604(b)(4) of the Middle East Peace Facilitation Act of 1995".

[8] For text, see *Legislation on Foreign Relations Through 2004*, vol. II.

(3) Middle East Peace Facilitation Act of 1994

Title V, Part E of Public Law 103–236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 488, approved April 23, 1994; amended by Public Law 103–306 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995; H.R. 4426], 108 Stat. 1608, approved August 23, 1994; Public Law 104–17 (109 Stat. 191), approved July 2, 1995; Public Law 104–22 (109 Stat. 260), approved August 14, 1995; Public Law 104–30 (109 Stat. 277), approved September 30, 1995; Public Law 104–47 (109 Stat. 423), approved November 13, 1995; Public Law 104–89 (109 Stat. 960), approved January 4, 1996; and by Public Law 104–99 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996, H.R. 1868, enacted by reference in sec. 301 of Public Law 104–99; H.R. 2880], 110 Stat. 26, approved January 26, 1996, enacted again as Public Law 104–107 [H.R. 1868], 110 Stat. 704, approved February 12, 1996

PART E—MIDDLE EAST PEACE FACILITATION

SEC. 581. SHORT TITLE.

This part may be cited as the "Middle East Peace Facilitation Act of 1994".

SEC. 582. FINDINGS.

The Congress finds that—

(1) the Palestine Liberation Organization has recognized the State of Israel's right to exist in peace and security; accepted United Nations Security Council Resolutions 242 and 338; committed itself to the peace process and peaceful coexistence with Israel, free from violence and all other acts which endanger peace and stability; and assumed responsibility over all Palestine Liberation Organization elements and personnel in order to assure their compliance, prevent violations, and discipline violators;

(2) Israel has recognized the Palestine Liberation Organization as the representative of the Palestinian people;

(3) Israel and the Palestine Liberation Organization signed a Declaration of Principles on Interim Self-Government Arrangements on September 13, 1993, at the White House;

(4) the United States has resumed a bilateral dialogue with the Palestine Liberation Organization; and

(5) in order to implement the Declaration of Principles on Interim Self-Government Arrangements and facilitate the Middle East peace process, the President has requested flexibility to suspend certain provisions of law pertaining to the Palestine Liberation Organization.

SEC. 583. AUTHORITY TO SUSPEND CERTAIN PROVISIONS.

(a) IN GENERAL.—Subject to subsection (b), beginning July 1, 1994, the President may suspend for a period of not more than 6 months any provision of law specified in subsection (c). The President may continue the suspension for a period or periods of not

more than 6 months until March 31, 1996,[1] if, before each such period, the President satisfies the requirements of subsection (b). Any suspension shall cease to be effective after 6 months, or at such earlier date as the President may specify.

(b) CONDITIONS.—

(1)[2] CONSULTATION.—Prior to each exercise of the authority provided in subsection (a), the President shall consult with the relevant congressional committees. The President may not exercise that authority until 30 days after a written policy justification is submitted to the relevant congressional committees.

(2) PRESIDENTIAL CERTIFICATION.—The President may exercise the authority provided in subsection (a) only if the President certifies to the relevant congressional committees each time he exercises such authority that—

(A) it is in the national interest of the United States to exercise such authority; and

(B) the Palestine Liberation Organization continues to abide by all the commitments described in paragraph (4).

(3) REQUIREMENT FOR CONTINUING PLO COMPLIANCE.—Any suspension under subsection (a) of a provision of law specified in subsection (c) shall cease to be effective if the President certifies to the relevant congressional committees that the Palestine Liberation Organization has not continued to abide by all the commitments described in paragraph (4).

(4) PLO COMMITMENTS DESCRIBED.—The commitments referred to in paragraphs (2) and (3) are the commitments made by the Palestine Liberation Organization—

(A) in its letter of September 9, 1993, to the Prime Minister of Israel; in its letter of September 9, 1993, to the Foreign Minister of Norway to—

(i) recognize the right of the State of Israel to exist in peace and security;

(ii) accept United Nations Security Council Resolutions 242 and 338;

(iii) renounce the use of terrorism and other acts of violence;

(iv) assume responsibility over all PLO elements and personnel in order to assure their compliance, prevent violations and discipline violators;

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[1] Sec. 1 of Public Law 104–17 (109 Stat. 191) extended this authority from July 1, 1995 to August 15, 1995. Further extensions were provided in Public Law 104–22 (109 Stat. 260)—extending to October 1, 1995; Public Law 104–30 (109 Stat. 277)—extending to November 1, 1995; Public Law 104–47 (109 Stat. 423)—extending to December 31, 1995; and Public Law 104–89 (109 Stat. 960)—extending to March 31, 1996. The latter extensions further provided the following, with appropriate dates adjusted:

"(b) CONSULTATION.—For purposes of any exercise of the authority provided in section 583(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236) prior to January 10, 1996, the written policy justification dated December 1, 1995, and submitted to the Congress in accordance with section 583(b)(1) of such Act, shall be deemed to satisfy the requirements of section 583(b)(1) of such Act.".

Sec. 605(a) Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104–107; 110 Stat. 760), struck out "November 1, 1995" and inserted in lieu thereof "January 1, 1996", an amendment already similarly provided in Public Law 104–47 and further amended by Public Law 104–89.

[2] In a July 26, 1994, memorandum the President delegated responsibility of fulfilling functions in paras. (1) and (6) to the Secretary of State.

(v) call upon the Palestinian people in the West Bank and Gaza Strip to take part in the steps leading to the normalization of life, rejecting violence and terrorism, and contributing to peace and stability; and

(vi) submit to the Palestine National Council for formal approval the necessary changes to the Palestinian National Covenant eliminating calls for Israel's destruction, and

(B) in, and resulting from, the good faith implementation of, the Declaration of Principles on Interim Self-Government Arrangements signed on September 13, 1993.

(5) EXPECTATION OF CONGRESS REGARDING ANY EXTENSION OF PRESIDENTIAL AUTHORITY.—The Congress expects that any extension of the authority provided to the President in subsection (a) will be conditional on the Palestine Liberation Organization—

(A) renouncing the Arab League boycott of Israel;

(B) urging the nations of the Arab League to end the Arab League boycott of Israel;

(C) cooperating with efforts undertaken by the President of the United States to end the Arab League boycott of Israel;[3]

(D) condemning individual acts of terrorism and violence; and[3]

(E)[3] amending its National Covenant to eliminate all references calling for the destruction of Israel.

(6) REPORTING REQUIREMENT.—As part of the President's written policy justification referred to in paragraph (1), the President will report on the PLO's response to individual acts of terrorism and violence, as well as its actions concerning the Arab League boycott of Israel as enumerated in paragraph (5) and on the status of the PLO office in the United States as enumerated in subsection (c)(3).

(c)[4] PROVISIONS THAT MAY BE SUSPENDED.—The provisions that may be suspended under the authority of subsection (a) are the following:

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[3] Sec. 565A of Public Law 103–306 (108 Stat. 1650) struck out "and" at the end of subpara. (C); struck out the period at the end of subpara. (D) and inserted in lieu thereof "; and"; and added subpara. (E).

[4] Sec. 3 of the Middle East Peace Facilitation Act of 1993, as amended (Public Law 103–125; 107 Stat. 1309), authorized the President to suspend certain provisions of law, including sec. 307 of this Act, as they applied to the P.L.O. or entities associated with it if certain conditions were met and the President so certified and consulted with relevant congressional committees. This authority was continued in this Act, and in the Middle East Peace Facilitation Act of 1995, (title VI of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996; Public Law 104–107).

The President issued certifications, as provided for in the 1993, 1994, and 1995 Acts, in Presidential Determination No. 94–13 of January 14, 1994 (59 F.R. 4777), which was extended until January 1, 1995, by Presidential Determination No. 94–30 of June 30, 1994 (59 F.R. 35607); until July 1, 1995, by Presidential Determination No. 95–12 of December 31, 1994 (60 F.R. 2673); until August 15, 1995, by Presidential Determination No. 95–31 of July 2, 1995 (60 F.R. 35827); until October 1, 1995, by Presidential Determination No. 95–36 of August 14, 1995 (60 F.R. 44725); until November 1, 1995, by Presidential Determination No. 95–50 of September 30, 1995 (60 F.R. 53093); until December 31, 1995, by Presidential Determination No. 96–5 of November 13, 1995 (60 F.R. 57821); until March 31, 1996, by Presidential Determination No. 96–8 of January 4, 1996 (61 F.R. 2889); until June 15, 1996, by Presidential Determination No. 96–20 of April 1, 1996 (61 F.R. 26019); until August 12, 1996, by Presidential Determination No. 96–32 of June 14, 1996 (61 F.R. 32629); until February 12, 1997, by Presidential Determination No. 96–41 of August 12, 1996 (61 F.R. 43137); and until August 12, 1997, by Presidential Determination No. 97–17 of February 21, 1997 (62 F.R. 9903).

(1) Section 307 of the Foreign Assistance Act of 1961 (22 U.S.C. 2227)[5] as it applies with respect to the Palestine Liberation Organization or entities associated with it.

(2) Section 114 of the Department of State Authorization Act, Fiscal years 1984 and 1985 (22 U.S.C. 287e note)[6] as it applies with respect to the Palestine Liberation Organization or entities associated with it.

(3) Section 1003 of the Foreign Relations Authorization Act, Fiscal years 1988 and 1989 (22 U.S.C. 5202).[7]

(4) Section 37 of the Bretton Woods Agreement Act (22 U.S.C. 286w)[8] as it applies to the granting to the Palestine Liberation Organization of observer status or other official status at any meeting sponsored by or associated with the International Monetary Fund. As used in this paragraph, the term "other official status" does not include membership in the International Monetary Fund.

(d) RELEVANT CONGRESSIONAL COMMITTEES DEFINED.—As used in this section, the term "relevant congressional committees" means—

(1) the Committee on Foreign Affairs, the Committee on Banking, Finance and Urban Affairs, and the Committee on Appropriations of the House of Representatives;[9] and

(2) the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

Authority to waive certain provisions is continued in general provisions of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447); see secs. 534(d), 544, 547, and 550. See also sec. 555, restricting aid unless the Secretary of State certifies that certain conditions have been met pertaining to Palestinian statehood, sec. 558, prohibiting assistance to the Palestinian Broadcasting Corporation, and sec. 559, West Bank and Gaza Program.

On December 5, 1997, the President waived the provisions of sec. 1003 of the Anti-Terrorism Act of 1987 (Public Law 100–204) through June 4, 1998 (Presidential Determination No. 98–8; 62 F.R. 66255); further waived through November 26, 1998 (Presidential Determination No. 98–29; June 3, 1998; 63 F.R. 32711); through May 24, 1999 (Presidential Determination No. 98–5; November 25, 1998; 63 F.R. 68145); through October 21, 1999 (Presidential Determination No. 99–25; May 24, 1999; 64 F.R. 29537); through April 21, 2000 (Presidential Determination 00–2; October 21, 1999; 64 F.R. 58755); through October 21, 2000 (Presidential Determination No. 2000–19; April 21, 2000; 65 F.R. 24852); through October 17, 2001 (Presidential Determination No. 01–13; April 17, 2001; 66 F.R. 20585); through April 16, 2002 (Presidential Determination No. 2002–03; October 16, 2001; 66 F.R. 53505); through October 16, 2002 (Presidential Determination No. 2002–14; April 16, 2002; 67 F.R. 20427); through April 16, 2003 (Presidential Determination No. 03–03; October 16, 2002; 67 F.R. 65471); through October 16, 2003 (Presidential Determination No. 2003–20; April 16, 2003; 68 F.R. 20327); through April 14, 2004 (Presidential Determination No. 2004–04; October 14, 2003; 68 F.R. 60841); through October 14, 2004 (Presidential Determination No. 2004–28; April 14, 2004; 69 F.R. 21679); and through April 14, 2005 (Presidential Determination No. 2005–02; October 14, 2004; 69 F.R. 62795).

[5] For text, see *Legislation on Foreign Relations Through 2004*, vol. I–A.

[6] For text, see *Legislation on Foreign Relations Through 2004*, vol. II.

[7] For text, see *Legislation on Foreign Relations Through 2004*, vol. II.

[8] For text, see *Legislation on Foreign Relations Through 2004*, vol. III.

[9] Sec. 1(a)(2) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Banking, Finance and Urban Affairs of the House of Representatives shall be treated as referring to the Committee on Banking and Financial Services of the House of Representatives. Sec. 1(a)(5) of that Act provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

(4) Middle East Peace Facilitation Act of 1993

Public Law 103–125 [S. 1487], 107 Stat. 1309, approved October 28, 1993; amended by Public Law 103–166 [S. 1667], 107 Stat. 1978, approved December 2, 1993

AN ACT Entitled the "Middle East Peace Facilitation Act of 1993".

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Middle East Peace Facilitation Act of 1993".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the Palestine Liberation Organization has recognized the State of Israel's right to exist in peace and security; accepted United Nations Security Council resolutions 242 and 338; committed itself to the peace process and peaceful coexistence with Israel, free from violence and all other acts which endanger peace and stability; and assumed responsibility over all Palestine Liberation Organization elements and personnel in order to assure their compliance, prevent violations, and discipline violators;

(2) Israel has recognized the Palestine Liberation Organization as the representative of the Palestinian people;

(3) Israel and the Palestine Liberation Organization signed a Declaration of Principles on Interim Self-Government Arrangements on September 13, 1993, at the White House;

(4) the United States has resumed a bilateral dialogue with the Palestine Liberation Organization; and

(5) in order to implement the Declaration of Principles on Interim Self-Government Arrangements and facilitate the Middle East peace process, the President has requested flexibility to suspend certain provisions of law pertaining to the Palestine Liberation Organization.

SEC. 3. AUTHORITY TO SUSPEND CERTAIN PROVISIONS.

(a) IN GENERAL.—Subject to subsection (b), the President may suspend any provision of law specified in subsection (d). Any such suspension shall cease to be effective on July 1, 1994,[1] or such earlier date as the President may specify.

(b) CONDITIONS.—

(1) CONSULTATION.—Before exercising the authority provided in subsection (a), the President shall consult with the relevant congressional committees.

[1] Sec. 1 of Public Law 103–166 (107 Stat. 1978) struck out "January 1" and inserted in lieu thereof "July 1".

(2) PRESIDENTIAL CERTIFICATION.—The President may exercise the authority provided in subsection (a) only if the President certifies to the relevant congressional committees that—

(A) it is in the national interest of the United States to exercise such authority; and

(B) the Palestine Liberation Organization continues to abide by all the commitments described in paragraph (4).

(3) REQUIREMENT FOR CONTINUING PLO COMPLIANCE.—Any suspension under subsection (a) of a provision of law specified in subsection (d) shall cease to be effective if the President certifies to the relevant congressional committees that the Palestine Liberation Organization has not continued to abide by all the commitments described in paragraph (4).

(4) PLO COMMITMENTS DESCRIBED.—The commitments referred to in paragraphs (2) and (3) are the commitments made by the Palestine Liberation Organization—

(A) in its letter of September 9, 1993, to the Prime Minister of Israel;

(B) in its letter of September 9, 1993, to the Foreign Minister of Norway; and

(C) in, and resulting from the implementation of, the Declaration of Principles on Interim Self-Government Arrangements signed on September 13, 1993.

(c) EXPECTATION OF CONGRESS REGARDING ANY EXTENSION OF PRESIDENTIAL AUTHORITY.—The Congress expects that any extension of the authority provided to the President in subsection (a) will be conditional on the Palestine Liberation Organization—

(1) renouncing the Arab League boycott of Israel;

(2) urging the nations of the Arab League to end the Arab League boycott of Israel; and

(3) cooperating with efforts undertaken by the President of the United States to end the Arab League boycott of Israel.

(d)[2] PROVISIONS THAT MAY BE SUSPENDED.—The provisions that may be suspended under the authority of subsection (a) are the following:

(1) Section 307 of the Foreign Assistance Act of 1961 (22 U.S.C. 2227)[3] as it applies with respect to the Palestine Liberation Organization or entities associated with it.

(2) Section 114 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (22 U.S.C. 287e note)[4] as it applies with respect to the Palestine Liberation Organization or entities associated with it.

(3) Section 1003 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 5202).[5]

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[2] In memoranda for the Secretary of State, the President has certified that it is in the national interests to suspend the application of these provisions of law. Presidential Determination No. 94–13 of January 14, 1994 (59 F.R. 4777) suspended the application until July 1, 1994; Presidential Determination No. 94–30 of June 30, 1994 (59 F.R. 35607) suspended the application until January 1, 1995 (pursuant to Public Law 103–236). Presidential Determination No. 95–12 of December 31, 1994 (60 F.R. 2673) suspended the application until July 1, 1995 (pursuant to Public Law 103–236).

[3] For text, see *Legislation on Foreign Relations Through 2004*, vol. I–A.

[4] For text, see *Legislation on Foreign Relations Through 2004*, vol. II.

[5] For text, see *Legislation on Foreign Relations Through 2004*, vol. II.

(4) Section 37 of the Bretton Woods Agreement Act (22 U.S.C. 286w)[6] as it applies to the granting to the Palestine Liberation Organization of observer status or other official status at any meeting sponsored by or associated with the International Monetary Fund. As used in this paragraph, the term "other official status" does not include membership in the International Monetary Fund.

(e) RELATION TO OTHER AUTHORITIES.—This section supersedes section 578 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1994 (Public Law 103–87).

(f) RELEVANT CONGRESSIONAL COMMITTEES DEFINED.—As used in this section, the term "relevant congressional committees" means—

(1) the Committee on Foreign Affairs, the Committee on Banking, Finance and Urban Affairs, and the Committee on Appropriations of the House of Representatives;[7] and

(2) the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

[6] For text, see *Legislation on Foreign Relations Through 2004*, vol. III.

[7] Sec. 1(a)(2) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Banking, Finance and Urban Affairs of the House of Representatives shall be treated as referring to the Committee on Banking and Financial Services of the House of Representatives. Sec. 1(a)(5) of that Act provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

(5) Emergency Supplemental Persian Gulf Refugee Assistance Act of 1991

Public Law 102–45 [H.R. 2122], 105 Stat. 247, approved May 17, 1991

AN ACT To authorize emergency humanitarian assistance for fiscal year 1991 for Iraqi refugees and other persons in and around Iraq who are displaced as a result of the Persian Gulf conflict.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Emergency Supplemental Persian Gulf Refugee Assistance Act of 1991".

SEC. 2. EMERGENCY ASSISTANCE FOR REFUGEES.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated as supplemental appropriations for fiscal year 1991 for emergency humanitarian assistance for Iraqi refugees and other persons in and around Iraq who are displaced as a result of the Persian Gulf conflict, and to reimburse appropriations accounts from which such assistance was provided before the date of the enactment of this Act—

(1) up to $150,000,000 for "International Disaster Assistance" under chapter 9 of part I of the Foreign Assistance Act of 1961; and

(2) up to $200,000,000 for "Migration and Refugee Assistance" for the Department of State.

(b) EMERGENCY MIGRATION AND REFUGEE ASSISTANCE.—For purposes of section 2(c)(2) of the Migration and Refugee Assistance Act of 1962, the limitation on appropriations for the "United States Emergency Refugee and Migration Assistance Fund" for fiscal year 1991 shall be deemed to be $75,000,000.

(c) CONTRIBUTIONS TO INTERNATIONAL PEACEKEEPING ACTIVITIES.—There are authorized to be appropriated as supplemental appropriations for fiscal year 1991 for peacekeeping activities in the Persian Gulf region and to reimburse accounts for which such activities have been funded before the date of enactment of this Act up to $50,000,000 for "Contributions to International Peacekeeping Activities" for the Department of State.

(d) OTHER AUTHORITIES.—

(1) INTERNATIONAL DISASTER ASSISTANCE.—Amounts obligated for fiscal year 1991 under the authority of section 492(b) of the Foreign Assistance Act of 1961 to provide international disaster assistance in connection with the Persian Gulf crisis shall not be counted against the ceiling limitation of such section.

(2) SPECIAL AUTHORITY.—The value of any defense articles, defense services, and military education and training authorized to be drawndown by the President on April 19, 1991,

under the authority of section 506(a)(2)(B) of the Foreign Assistance Act of 1961 shall not be counted against the ceiling limitation of such section.

(3) AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954 (PUBLIC LAW 480).—Notwithstanding subsections (b) and (c) of section 412 of the Agricultural Trade Development and Assistance Act of 1954 or any other provision of law, funds made available for any title of such Act by the Rural Development, Agriculture, and Related Agencies Appropriations Act, 1991, may be used for purposes of title II of the Agricultural Trade Development and Assistance Act of 1954.

(d) WAIVER OF COUNTRY SPECIFIC RESTRICTIONS.—Assistance may be provided under this section notwithstanding any provision of law which restricts assistance to particular countries.

(e) AVAILABILITY OF FUNDS.—Amounts authorized to be appropriated under this section are authorized to remain available until expended.

(f) SOURCES OF FUNDS.—Notwithstanding any other provision of law, amounts authorized to be appropriated under this section are authorized to be appropriated from the Defense Cooperation Account of the United States Treasury, the Persian Gulf Regional Defense Fund of the United States Treasury, or the General Fund of the Treasury.

(g) DESIGNATION AS EMERGENCY FOR BUDGETARY PURPOSES.—Funds authorized to be appropriated under this section may be designated emergency requirements pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

(6) Emergency Supplemental Assistance for Israel Act of 1991

Public Law 102–21 [H.R. 1284], 105 Stat. 70, approved March 28, 1991

AN ACT To authorize emergency supplemental assistance for Israel for additional costs incurred as a result of the Persian Gulf conflict.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Emergency Supplemental Assistance for Israel Act of 1991".

SEC. 2. EMERGENCY ASSISTANCE FOR ISRAEL.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated as emergency supplemental appropriations for fiscal year 1991 for assistance under chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund) $650,000,000 for additional costs resulting from the conflict in the Persian Gulf region.

(b) CASH GRANT FOR ISRAEL.—Funds appropriated pursuant to the authorization contained in subsection (a) shall be available only for assistance for Israel. Such assistance shall be provided on a grant basis as a cash transfer. Funds provided to Israel under this section may be used by Israel for incremental costs associated with the conflict in the Persian Gulf region without regard to section 531(e) of the Foreign Assistance Act of 1961.

(c) DESIGNATION AS EMERGENCY FOR BUDGETARY PURPOSES.—Funds authorized to be appropriated under this section are designated emergency requirements pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

(7) Jordan Supplemental Economic Assistance Authorization Act of 1985

Partial text of Public Law 99–88 [Supplemental Appropriations Act, 1985; H.R. 2577], 99 Stat. 376, approved August 15, 1985

AN ACT Making supplemental appropriations for the fiscal year ending September 30, 1985, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to provide supplemental appropriations for the fiscal year ending September 30, 1985, and for other purposes.

* * * * * * *

TITLE IV—AUTHORIZATION OF ECONOMIC SUPPORT FUND ASSISTANCE FOR JORDAN

SHORT TITLE

SEC. 401. This title may be cited as the "Jordan Supplemental Economic Assistance Authorization Act of 1985".

ECONOMIC SUPPORT FUND

SEC. 402. (a)(1) In addition to funds otherwise available for such purposes for such fiscal year, there are authorized to be appropriated to the President to carry out chapter 4 of part II of the Foreign Assistance Act of 1961, $250,000,000 for the fiscal year 1985, which amount shall be available only for Jordan.

(2) Of the funds authorized to be appropriated by paragraph (1)—

(A) for the fiscal year 1985, $50,000,000 shall be available only for commodity import programs and $30,000,000 shall be available only for project assistance;

(B) for the fiscal year 1986, $50,000,000 shall be available only for commodity import programs and $30,000,000 shall be available only for project assistance; and

(C) for the fiscal year 1987, $60,000,000 shall be available only for commodity import programs and $30,000,000 shall be available only for project assistance.

(b) Amounts appropriated to carry out this section are authorized to remain available until September 30, 1987.[1]

[1] Title II of the Foreign Assistance and Related Programs Appropriations Act, 1987 (sec. 101(f) of the Continuing Appropriations Act, 1987; Public Law 99–591; 100 Stat. 3341), provided:

"Economic support fund: * * * *Provided further*, That up to $15,000,000 shall be made available for Jordan in addition to funds otherwise made available by this paragraph and allocated to Jordan: * * *".

POLICY

SEC. 403. (a) SENSE OF CONGRESS.—It is the sense of Congress that no foreign military sales financing authorized by this Act may be used to finance the procurement by Jordan of United States advanced aircraft, new air defense weapons systems, or other new advanced military weapons systems, and no notification may be made pursuant to section 36(b) of the Arms Export Control Act with respect to a proposed sale to Jordan of United States advanced aircraft, new air defense systems, or other new advanced military weapons systems, unless Jordan is publicly committed to the recognition of Israel and to negotiate promptly and directly with Israel under the basic tenets of United Nations Security Council Resolutions 242 and 338.

(b) CERTIFICATION.—Any notification made pursuant to section 36(b) of the Arms Export Control Act with respect to a proposed sale to Jordan of United States advanced aircraft, new air defense systems or other new advanced military weapons, must be accompanied by a Presidential certification of Jordan's public commitment to the recognition of Israel and to negotiate promptly and directly with Israel under the basic tenets of United Nations Security Council Resolutions 242 and 338.

(8) Lebanon Emergency Assistance Act of 1983 [1]

Public Law 98–43 [S. 639], 97 Stat. 214, approved June 27, 1983

AN ACT To authorize supplemental assistance to aid Lebanon in rebuilding its economy and armed forces, and for other purposes.

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

SHORT TITLE

Section 1. This Act may be cited as the "Lebanon Emergency Assistance Act of 1983".

ECONOMIC SUPPORT FUND

Sec. 2. (a) It is hereby determined that the national interests of the United States would be served by the authorization and appropriation of additional funds for economic assistance for Lebanon in order to promote the economic and political stability of that country and to support the international effort to strengthen a sovereign and independent Lebanon.

(b) Accordingly, in addition to amounts otherwise authorized to be appropriated for the fiscal year 1983 to carry out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961, there are authorized to be appropriated $150,000,000 to carry out such provisions with respect to Lebanon.[2]

(c) Amounts authorized by this section may be appropriated in an appropriation Act for any fiscal year (including a continuing resolution) and shall continue to be available beyond the fiscal year notwithstanding any provision of that appropriation Act to the contrary.

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[1] See also the Multinational Force in Lebanon Resolution, *Legislation on Foreign Relations Through 2004*, vol. II.

[2] The Supplemental Appropriations Act, 1983 (Public Law 98–63; 97 Stat. 317), provided the following:

"ECONOMIC SUPPORT FUND

"For an additional amount for the 'Economic Support Fund', $301,250,000: *Provided,* That $150,000,000 of this amount shall be available only for Lebanon, to remain available until expended.".

Subsequently, title II of the Foreign Assistance and Related Programs Appropriations Act, 1986 (Further Continuing Appropriations Act, 1986, Public Law 99–190; 99 Stat. 1299), provided the following transfer of funds appropriated in the Supplemental Appropriations Act, 1983 (Public Law 98–63):

"Transfer of funds: Of the unobligated funds remaining from funds appropriated for the 'Economic support fund' for Lebanon in Public Law 98–63, $22,850,000, shall be transferred as follows: (1) $12,500,000 to the 'Child Survival Funds,' (2) $5,350,000 to Internal Organizations and Programs for the United Nations Children's Fund, and (3) to 'International Narcotics Control: *Provided,* That except for such transfers,' amounts remaining unobligated as of September 30, 1985, from funds appropriated for the 'Economic Support Fund' for Lebanon in Public Law 98–63 shall, notwithstanding sections 451, 492(b), and 614 of the Foreign Assistance Act of 1961, or any other provision of law, be made available only for Lebanon: *Provided further,* That, to the extent that these funds cannot be used to provide assistance for Lebanon, they shall revert to the Treasury as miscellaneous receipts.".

MILITARY SALES AND RELATED PROGRAMS

Sec. 3. (a) In order to support the rebuilding of the armed forces of Lebanon, the Congress finds that the national security interests of the United States would be served by the authorization and appropriation of additional funds to provide training for the Lebanese armed forces and by the authorization of additional foreign military sales guaranties to finance procurements by Lebanon of defense articles and defense services for its security requirements.

(b) In addition to amounts otherwise made available for the fiscal year 1983 to carry out the provisions of chapter 5 of part II of the Foreign Assistance Act of 1961, there are authorized to be appropriated for the fiscal year 1983 $1,000,000 to carry out such provisions with respect to Lebanon.[3]

(c) In addition to amounts otherwise made available for the fiscal year 1983 for loan guaranties under section 24(a) of the Arms Export Control Act, $100,000,000 of loan principal are authorized to be so guaranteed during such fiscal year for Lebanon.[3]

UNITED STATES ARMED FORCES IN LEBANON

Sec. 4. (a) The President shall obtain statutory authorization from the Congress with respect to any substantial expansion in the number or role in Lebanon of United States Armed Forces, including any introduction of United States Armed Forces into Lebanon in conjunction with agreements providing for the withdrawal of all foreign troops from Lebanon and for the creation of a new multinational peace-keeping force in Lebanon.

(b) Nothing in this section is intended to modify, limit, or suspend any of the standards and procedures prescribed by the War Powers Resolution of 1973.

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[3] Chapter V of the Supplemental Appropriations Act, 1983 (Public Law 98–63; 97 Stat. 318) provided the following:

"FOREIGN MILITARY SALES CREDIT

"During fiscal year 1983, for an additional amount for Foreign Military Credit Sales, for commitments to guarantee loans, $293,500,000 of contingent liability for loan principal: *Provided,* That of this sum $100,000,000 shall be available only for assistance to Lebanon.

"INTERNATIONAL MILITARY EDUCATION AND TRAINING

"For an additional amount for International military education and training, $1,000,000.".

(9) Special International Security Assistance Act of 1979

Partial text of Public Law 96–35 [S. 1007], 93 Stat. 89, approved July 20, 1979, as amended by Public Law 97–113 [International Security and Development Cooperation Act of 1981, S. 1196], 95 Stat. 1519 at 1560, approved December 29, 1981

AN ACT To authorize supplemental international security assistance for the fiscal year 1979 in support of the peace treaty between Egypt and Israel, and for other purposes.

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

SHORT TITLE

Section 1. This Act may be cited as the "Special International Security Assistance Act of 1979".

STATEMENT OF POLICY AND FINDINGS

Sec. 2.[1] (a) It is the policy of the United States to support the peace treaty concluded between the Government of Egypt and the Government of Israel on March 26, 1979. This treaty is a significant step toward a full and comprehensive peace in the Middle East. The Congress urges the President to continue to exert every effort to bring about a comprehensive peace and to seek an end by all parties to the violence which could jeopardize this peace.

(b) The peace treaty between Egypt and Israel having been ratified, the Congress finds that the national interests of the United States are served—

(1) by authorizing the President to construct air bases in Israel to replace the Israeli air bases on the Sinai peninsula that are to be evacuated;

(2) by authorizing additional funds to finance procurements by Egypt and Israel through the fiscal year 1982 of defense articles and defense services for their respective security requirements; and

(3) by authorizing additional funds for economic assistance for Egypt in order to promote the economic stability and development of that country and to support the peace process in the Middle East.

(c) The authorities contained in this Act to implement certain arrangements in support of the peace treaty between Egypt and Israel do not signify approval by the Congress of any other agreement, understanding, or commitment made by the executive branch.

[1] 22 U.S.C. 3401.

CONSTRUCTION OF AIR BASES IN ISRAEL

Sec. 3.[2] * * *

SUPPLEMENTAL AUTHORIZATION OF FOREIGN MILITARY SALES LOAN GUARANTIES FOR EGYPT AND ISRAEL

Sec. 4.[3] (a) The Congress finds that the legitimate defense interests of Israel and Egypt require a one time extraordinary assistance package due to Israel's phased withdrawal from the Sinai and Egypt's shift from reliance on Soviet weaponry. The authorizations contained in this section do not, however, constitute Congressional approval of the sale of any particular weapons system to either country. These sales will be reviewed under the normal procedures set forth in section 36(b) of the Arms Export Control Act.

(b) In addition to amounts authorized to be appropriated for the fiscal year 1979 by section 31(a) of the Arms Export Control Act, there is authorized to be appropriated to the President to carry out that Act $370,000,000 for the fiscal year 1979.[4]

(c) Funds made available pursuant to subsection (b) of this section may be used only for guaranties for Egypt and Israel pursuant to section 24(a) of the Arms Export Control Act. The principal amount of loans guaranteed with such funds may not exceed $3,700,000,000 of which $2,200,000,000 shall be available only for Israel and $1,500,000,000 shall be available only for Egypt. The principal amount of such guaranteed loans shall be in addition to the aggregate ceiling authorized for the fiscal year 1979 by section 31(b) of the Arms Export Control Act.

(d) Loans guaranteed with funds made available pursuant to subsection (b) of this section shall be on terms calling for repayment within a period of not less than thirty years, including an initial grace period of ten years on repayment of principal.

(e)(1) The Congress finds that the Governments of Israel and Egypt each have an enormous external debt burden which may be made more difficult by virtue of the financing authorized by this section. The Congress further finds that, as a consequence of the impact of the debt burdens incurred by Israel and Egypt under such financing, it may become necessary in future years to modify the terms of the loans guaranteed with funds made available pursuant to this section.

(2)[5] * * * [Repealed—1981]

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[2] Sec. 3 amended the Foreign Assistance Act of 1961 by adding a new ch. 7 ("Air Base Construction in Israel") to part II of that Act.

[3] 22 U.S.C. 3402.

[4] Supplemental Appropriations Act, 1979 (Public Law 96–38; 93 Stat. 103) stated: "For an additional amount for 'Foreign military credit sales' for Egypt and Israel, $370,000,000.".

[5] Para. (2), which had required an annual report by the President concerning the economic conditions prevailing in Israel and Egypt which may affect their respective ability to meet their obligations to make payments under the financing authorized in this section, was repealed by sec. 734(a)(4) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). A similar report was required by sec. 723 of Public Law 97–113; see *Legislation on Foreign Relations Through 2004*, vol. I–A).

SUPPLEMENTAL AUTHORIZATION OF ECONOMIC SUPPORT FOR EGYPT

Sec. 5.[6] There is authorized to be appropriated to the President to carry out chapter 4 of part II of the Foreign Assistance Act of 1961, $300,000,000 for the fiscal year 1979 for Egypt, in addition to amounts otherwise authorized to be appropriated for such chapter for the fiscal year 1979.[7] The amounts appropriated pursuant to this section may be made available until expended.

TRANSFER OF FACILITIES OF THE SINAI FIELD MISSION TO EGYPT

Sec. 6.[8] The President is authorized to transfer to Egypt, on such terms and conditions as he may determine, such of the facilities and related property of the United States Sinai Field Mission as he may determine, upon the termination of the activities of the Sinai Field Mission in accordance with the terms of the peace treaty between Egypt and Israel.

CONTRIBUTIONS BY OTHER COUNTRIES TO SUPPORT PEACE IN THE MIDDLE EAST

Sec. 7.[9] (a) It is the sense of the Congress that other countries should give favorable consideration to providing support for the implementation of the peace treaty between Egypt and Israel. Therefore, the Congress requests that the President consult with other countries in order to (1) promote and develop an agreement for the establishment of a peace development fund whose purpose would be to underwrite the costs of implementing a Middle East peace, and (2) encourage investments in Israel and Egypt and other countries in the region should they join in Middle East peace agreements.

(b)[10] * * * [Repealed—1981]

PLANNING FOR TRILATERAL SCIENTIFIC AND TECHNOLOGICAL COOPERATION BY EGYPT, ISRAEL, AND THE UNITED STATES

Sec. 8.[11] (a) It is the sense of the Congress that, in order to continue to build the structure of peace in the Middle East, the United States should be prepared to participate, at an appropriate time, in trilateral cooperative projects of a scientific and technological nature involving Egypt, Israel, and the United States.

(b) Therefore, the President shall develop a plan to guide the participation of both United States Government agencies and private institutions in such projects. This plan shall identify—

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[6] 22 U.S.C. 3403.

[7] Supplemental Appropriations Act, 1979 (Public Law 96–38; 93 Stat. 102) stated: "For an additional amount for the 'Economic support fund' for Egypt, $300,000,000, to remain available until expended.".

[8] 22 U.S.C. 3404.

[9] 22 U.S.C. 3405.

[10] Subsec. (b), which had required a report from the President on U.S. efforts to increase economic aid from other donors to Egypt, Israel, and others in the region and the impact on Egypt's economy of Arab sanctions against Egypt, was repealed by sec. 734(a)(4) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). The President submitted this report to Congress on January 6, 1981.

[11] 22 U.S.C. 3406.

(1) potential projects in a variety of areas appropriate for scientific and technological cooperation by the three countries, including agriculture, health, energy, the environment, education, and water resources;

(2) the resources which are available or which would be needed to implement such projects; and

(3) the means by which such projects would be implemented.

(c)[12] * * * [Repealed—1981]

REPORT ON COSTS TO THE UNITED STATES OF IMPLEMENTING THE PEACE TREATY BETWEEN EGYPT AND ISRAEL

Sec. 9.[13] * * * [Repealed—1981]

NON-PROLIFERATION OF NUCLEAR WEAPONS

Sec. 10.[14] In accordance with the Nuclear Non-Proliferation Act of 1978, the Congress strongly encourages all countries in the Middle East which are not parties to the Treaty on the Non-Proliferation of Nuclear Weapons to become parties to that Treaty.

[12] Subsec. (c), which had required the President to transmit the plan developed pursuant to subsec. (b) to the Congress, was repealed by sec. 734(a)(4) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). This plan was submitted to Congress on September 29, 1980.

[13] Sec. 9, which has required a report from the President on the costs to the U.S. Government associated with the implementation of the Egyptian-Israeli peace treaty, was repealed by sec. 734(a)(4) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1560). The President submitted this report to Congress on October 25, 1979.

[14] 22 U.S.C. 3408.

f. Asia [1]

(1) Afghan Women and Children Relief Act of 2001

Public Law 107–81 [S. 1573], 115 Stat. 811, approved December 12, 2001

AN ACT To authorize the provision of educational and health care assistance to the women and children of Afghanistan.

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

SECTION 1.[2] SHORT TITLE.

This Act may be cited as the "Afghan Women and Children Relief Act of 2001".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) In Afghanistan, Taliban restrictions on women's participation in society make it nearly impossible for women to exercise their basic human rights. The Taliban restrictions on Afghan women's freedom of expression, association, and movement deny women full participation in society and, consequently, from effectively securing basic access to work, education, and health care.

(2) Afghanistan has one of the highest infant (165 of 1000) and child (257 of 1000) mortality rates in the world.

(3) Only 5 percent of rural and 39 percent of urban Afghans have access to safe drinking water.

(4) It is estimated that 42 percent of all deaths in Afghanistan are due to diarrheal diseases caused by contaminated food and water.

(5) Over one-third of Afghan children under 5 years of age suffer from malnutrition, 85,000 of whom die annually.

(6) Seventy percent of the health care system in Afghanistan is dependent on foreign assistance.

(7) As of May 1998, only 20 percent of hospital medical and surgical beds dedicated to adults were available for women, and thousands of Afghan women and girls are routinely denied health care.

(8) Women are forbidden to leave their homes without being escorted by a male relative. This prevents many women from seeking basic necessities like health care and food for their children. Doctors, virtually all of whom are male, are also not

[1] See also the North Korean Human Rights Act of 2004 (Public Law 108–333), Afghanistan Freedom Support Act of 2002 (Public Law 107–327), and Afghanistan Freedom Support Act Amendments of 2004 (Public Law 108–458), in *Legislation on Foreign Relations Through 2004*, vol. I–A; U.S.-Macau Policy Act (Public Law 106–570), Pacific Charter Commission Act of 2000 (Public Law 106–570), in *Legislation on Foreign Relations Through 2004*, vol. II; and U.S.-China Relations Act of 2000 (Public Law 106–286), in *Legislation on Foreign Relations Through 2004*, vol. III.

[2] 22 U.S.C. 2374 note.

permitted to provide certain types of care not deemed appropriate by the Taliban.

(9) Before the Taliban took control of Kabul, schools were coeducational, with women accounting for 70 percent of the teaching force. Women represented about 50 percent of the civil service corps, and 40 percent of the city's physicians were women. Today, the Taliban prohibits women from working as teachers, doctors, and in any other occupation.

(10) The Taliban prohibit girls and women from attending school. In 1998, the Taliban ordered the closing of more than 100 privately funded schools where thousands of young women and girls were receiving education and training in skills that would have helped them support themselves and their families.

(11) Of the many tens of thousands of war widows in Afghanistan, many are forced to beg for food and to sell their possessions because they are not allowed to work.

(12) Resistance movements courageously continue to educate Afghan girls in secrecy and in foreign countries against Taliban law.

SEC. 3. AUTHORIZATION OF ASSISTANCE.

(a) IN GENERAL.—Subject to subsection (b), the President is authorized, on such terms and conditions as the President may determine, to provide educational and health care assistance for the women and children living in Afghanistan and as refugees in neighboring countries.

(b) IMPLEMENTATION.—(1) In providing assistance under subsection (a), the President shall ensure that such assistance is provided in a manner that protects and promotes the human rights of all people in Afghanistan, utilizing indigenous institutions and nongovernmental organizations, especially women's organizations, to the extent possible.

(2) Beginning 6 months after the date of enactment of this Act, and at least annually for the 2 years thereafter, the Secretary of State shall submit a report to the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on International Relations of the House of Representatives describing the activities carried out under this Act and otherwise describing the condition and status of women and children in Afghanistan and the persons in refugee camps while United States aid is given to displaced Afghans.

(c) AVAILABILITY OF FUNDS.—Funds made available under the 2001 Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States (Public Law 107–38), shall be available to carry out this Act.

(2) United States-China Economic and Security Review Commission

Division P of the Public Law 108–7 [Consolidated Appropriations Resolution, 2003; H.J. Res. 2], 117 Stat. 11 at 552, approved February 20, 2003

DIVISION P—UNITED STATES-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION

SECTION 1.[1] SHORT TITLE.—This division may be cited as the "United States-China Economic and Security Review Commission".

SEC. 2. (a) APPROPRIATIONS.—There are appropriated, out of any funds in the Treasury not otherwise appropriated, $1,800,000, to remain available until expended, to the United States-China Economic and Security Review Commission.

(b) NAME CHANGE.—

(1) IN GENERAL.—Section 1238 of the Floyd D. Spence National Defense Authorization Act of 2001 (22 U.S.C. 7002) is amended—* * *[2]

(2)[3] REFERENCES.—Any reference in any Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to the United States-China Security Review Commission shall be deemed to refer to the United States-China Economic and Security Review Commission.

(c) MEMBERSHIP, RESPONSIBILITIES, AND TERMS.—

(1) IN GENERAL.—Section 1238(b)(3) of the Floyd D. Spence National Defense Authorization Act of 2001 (22 U.S.C. 7002) is amended by striking subparagraph (F) and inserting the following: * * *

(2)[3] RESPONSIBILITIES OF THE COMMISSION.—The United States-China Commission shall focus, in lieu of any other areas of work or study, on the following:

(A) PROLIFERATION PRACTICES.—The Commission shall analyze and assess the Chinese role in the proliferation of weapons of mass destruction and other weapons (including dual use technologies) to terrorist-sponsoring states, and suggest possible steps which the United States might take, including economic sanctions, to encourage the Chinese to stop such practices.

(B) ECONOMIC REFORMS AND UNITED STATES ECONOMIC TRANSFERS.—The Commission shall analyze and assess the qualitative and quantitative nature of the shift of United States production activities to China, including the relocation of high-technology, manufacturing, and R&D facilities;

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[1] 22 U.S.C. 6901 note. See also sec. 1238 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398), establishing the United States-China Economic and Security Review Commission, beginning at page 839.

[2] For amended text, see page 839.

[3] 22 U.S.C. 7002 note.

the impact of these transfers on United States national security, including political influence by the Chinese Government over American firms, dependence of the United States national security industrial base on Chinese imports, the adequacy of United States export control laws, and the effect of these transfers on United States economic security, employment, and the standard of living of the American people; analyze China's national budget and assess China's fiscal strength to address internal instability problems and assess the likelihood of externalization of such problems.

(C) ENERGY.—The Commission shall evaluate and assess how China's large and growing economy will impact upon world energy supplies and the role the United States can play, including joint R&D efforts and technological assistance, in influencing China's energy policy.

(D) UNITED STATES CAPITAL MARKETS.—The Commission shall evaluate the extent of Chinese access to, and use of United States capital markets, and whether the existing disclosure and transparency rules are adequate to identify Chinese companies which are active in United States markets and are also engaged in proliferation activities or other activities harmful to United States security interests.

(E) CORPORATE REPORTING.—The Commission shall assess United States trade and investment relationship with China, including the need for corporate reporting on United States investments in China and incentives that China may be offering to United States corporations to relocate production and R&D to China.

(F) REGIONAL ECONOMIC AND SECURITY IMPACTS.—The Commission shall assess the extent of China's "hollowing-out" of Asian manufacturing economies, and the impact on United States economic and security interests in the region; review the triangular economic and security relationship among the United States, Taipei and Beijing, including Beijing's military modernization and force deployments aimed at Taipei, and the adequacy of United States executive branch coordination and consultation with Congress on United States arms sales and defense relationship with Taipei.

(G) UNITED STATES-CHINA BILATERAL PROGRAMS.—The Commission shall assess science and technology programs to evaluate if the United States is developing an adequate coordinating mechanism with appropriate review by the intelligence community with Congress; assess the degree of non-compliance by China and United States-China agreements on prison labor imports and intellectual property rights; evaluate United States enforcement policies; and recommend what new measures the United States Government might take to strengthen our laws and enforcement activities and to encourage compliance by the Chinese.

(H) WORLD TRADE ORGANIZATION COMPLIANCE.—The Commission shall review China's record of compliance to

date with its accession agreement to the WTO, and explore what incentives and policy initiatives should be pursued to promote further compliance by China.

(I) MEDIA CONTROL.—The Commission shall evaluate Chinese government efforts to influence and control perceptions of the United States and its policies through the internet, the Chinese print and electronic media, and Chinese internal propaganda.

(3)[3] EFFECTIVE DATE.—This section shall take effect on the date of enactment of this Act.

(3) U.S.-China Relations Act of 2000

Division B of Public Law 106–286 [H.R. 4444], 114 Stat. 880, approved October 10, 2000; amended by Public Law 107–228 [Foreign Relations Authorization Act, Fiscal Year 2003; H.R. 1646], 116 Stat. 1350, approved September 30, 2002

DIVISION B—UNITED STATES–CHINA RELATIONS

TITLE II—GENERAL PROVISIONS

SEC. 201[1] SHORT TITLE OF DIVISION; TABLE OF CONTENTS OF DIVISION

(a) SHORT TITLE OF DIVISION.—This division may be cited as the "U.S.-China Relations Act of 2000".

(b) TABLE OF CONTENTS OF DIVISION.—The table of contents of this division is as follows:

DIVISION B—UNITED STATES-CHINA RELATIONS

Page

TITLE II—GENERAL PROVISIONS

Sec. 201. Short title of division; table of contents of division 327
Sec. 202. Findings 328
Sec. 203. Policy 330
Sec. 204. Definitions 331

TITLE III—CONGRESSIONAL-EXECUTIVE COMMISSION ON THE PEOPLE'S REPUBLIC OF CHINA

Sec. 301. Establishment of Congressional-Executive Commission on the People's Republic of China 331
Sec. 302. Functions of the Commission 331
Sec. 303. Membership of the Commission 334
Sec. 304. Votes of the Commission 335
Sec. 305. Expenditure of appropriations 335
Sec. 306. Testimony of witnesses, production of evidence; issuance of subpoenas; administration of oaths 335
Sec. 307. Appropriations for the Commission 336
Sec. 308. Staff of the Commission 336
Sec. 309. Printing and binding costs 337

TITLE IV—MONITORING AND ENFORCEMENT OF THE PEOPLE'S REPUBLIC OF CHINA'S WTO COMMITMENTS

SUBTITLE A—REVIEW OF MEMBERSHIP OF THE PEOPLE'S REPUBLIC OF CHINA IN THE WTO

Sec. 401. Review within the WTO 337

SUBTITLE B—AUTHORIZATION TO PROMOTE COMPLIANCE WITH TRADE AGREEMENTS

Sec. 411. Findings 337
Sec. 412. Purpose 338
Sec. 413. Authorization of appropriations 338

[1] 22 U.S.C. 6901 note. Division A of this Act, relating to establishing normal trade relations with China, may be found in *Legislation on Foreign Relations Through 2004*, vol. III.

SUBTITLE C—REPORT ON COMPLIANCE BY THE PEOPLE'S REPUBLIC OF CHINA WITH WTO OBLIGATIONS

Sec. 421. Report on compliance 339

TITLE V—TRADE AND RULE OF LAW ISSUES IN THE PEOPLE'S REPUBLIC OF CHINA

SUBTITLE A—TASK FORCE ON PROHIBITION OF IMPORTATION OF PRODUCTS OF FORCED OR PRISON LABOR FROM THE PEOPLE'S REPUBLIC OF CHINA

Sec. 501. Establishment of Task Force 340
Sec. 502. Functions of Task Force 340
Sec. 503. Composition of Task Force 341
Sec. 504. Authorization of appropriations 341
Sec. 505. Reports to Congress 341

SUBTITLE B—ASSISTANCE TO DEVELOP COMMERCIAL AND LABOR RULE OF LAW

Sec. 511. Establishment of technical assistance and rule of law programs 342
Sec. 512. Administrative authorities 343
Sec. 513. Prohibition relating to human rights abuses 343
Sec. 514. Authorization of appropriations 343

TITLE VI—ACCESSION OF TAIWAN TO THE WTO

Sec. 601. Accession of Taiwan to the WTO 343

TITLE VII—RELATED ISSUES

Sec. 701. Authorizations of appropriations for broadcasting capital improvements and international broadcasting operations 344

SEC. 202.[2] FINDINGS.

The Congress finds the following:

(1) In 1980, the United States opened trade relations with the People's Republic of China by entering into a bilateral trade agreement, which was approved by joint resolution enacted pursuant to section 405(c) of the Trade Act of 1974.

(2) Since 1980, the President has consistently extended nondiscriminatory treatment to products of the People's Republic of China, pursuant to his authority under section 404 of the Trade Act of 1974.

(3) Since 1980, the United States has entered into several additional trade-related agreements with the People's Republic of China, including a memorandum of understanding on market access in 1992, two agreements on intellectual property rights protection in 1992 and 1995, and an agreement on agricultural cooperation in 1999.

(4) Trade in goods between the People's Republic of China and the United States totaled almost $95,000,000,000 in 1999, compared with approximately $18,000,000,000 in 1989, representing growth of approximately 428 percent over 10 years.

(5) The United States merchandise trade deficit with the People's Republic of China has grown from approximately $6,000,000,000 in 1989 to over $68,000,000,000 in 1999, a growth of over 1,000 percent.

(6) The People's Republic of China currently restricts imports through relatively high tariffs and nontariff barriers, including import licensing, technology transfer, and local content requirements.

[2] 22 U.S.C. 6901

(7) United States businesses attempting to sell goods to markets in the People's Republic of China have complained of uneven application of tariffs, customs procedures, and other laws, rules, and administrative measures affecting their ability to sell their products in the Chinese market.

(8) On November 15, 1999, the United States and the People's Republic of China concluded a bilateral agreement concerning terms of the People's Republic of China's eventual accession to the World Trade Organization.

(9) The commitments that the People's Republic of China made in its November 15, 1999, agreement with the United States promise to eliminate or greatly reduce the principal barriers to trade with and investment in the People's Republic of China, if those commitments are effectively complied with and enforced.

(10) The record of the People's Republic of China in implementing trade-related commitments has been mixed. While the People's Republic of China has generally met the requirements of the 1992 market access memorandum of understanding and the 1992 and 1995 agreements on intellectual property rights protection, other measures remain in place or have been put into place which tend to diminish the benefit to United States businesses, farmers, and workers from the People's Republic of China's implementation of those earlier commitments. Notably, administration of tariff-rate quotas and other trade-related laws remains opaque, new local content requirements have proliferated, restrictions on importation of animal and plant products are not always supported by sound science, and licensing requirements for importation and distribution of goods remain common. Finally, the Government of the People's Republic of China has failed to cooperate with the United States Customs Service in implementing a 1992 memorandum of understanding prohibiting trade in products made by prison labor.

(11) The human rights record of the People's Republic of China is a matter of very serious concern to the Congress. The Congress notes that the Department of State's 1999 Country Reports on Human Rights Practices for the People's Republic of China finds that "[t]he Government's poor human rights record deteriorated markedly throughout the year, as the Government intensified efforts to suppress dissent, particularly organized dissent.".

(12) The Congress deplores violations by the Government of the People's Republic of China of human rights, religious freedoms, and worker rights that are referred to in the Department of State's 1999 Country Reports on Human Rights Practices for the People's Republic of China, including the banning of the Falun Gong spiritual movement, denial in many cases, particularly politically sensitive ones, of effective representation by counsel and public trials, extrajudicial killings and torture, forced abortion and sterilization, restriction of access to Tibet and Xinjiang, perpetuation of "reeducation through labor", denial of the right of workers to organize labor unions

or bargain collectively with their employers, and failure to implement a 1992 memorandum of understanding prohibiting trade in products made by prison labor.

SEC. 203.[3] POLICY.

It is the policy of the United States—

(1) to develop trade relations that broaden the benefits of trade, and lead to a leveling up, rather than a leveling down, of labor, environmental, commercial rule of law, market access, anticorruption, and other standards across national borders;

(2) to pursue effective enforcement of trade-related and other international commitments by foreign governments through enforcement mechanisms of international organizations and through the application of United States law as appropriate;

(3) to encourage foreign governments to conduct both commercial and noncommercial affairs according to the rule of law developed through democratic processes;

(4) to encourage the Government of the People's Republic of China to afford its workers internationally recognized worker rights;

(5) to encourage the Government of the People's Republic of China to protect the human rights of people within the territory of the People's Republic of China, and to take steps toward protecting such rights, including, but not limited to—

(A) ratifying the International Covenant on Civil and Political Rights;

(B) protecting the right to liberty of movement and freedom to choose a residence within the People's Republic of China and the right to leave from and return to the People's Republic of China; and

(C) affording a criminal defendant—

(i) the right to be tried in his or her presence, and to defend himself or herself in person or through legal assistance of his or her own choosing;

(ii) the right to be informed, if he or she does not have legal assistance, of the right set forth in clause (i);

(iii) the right to have legal assistance assigned to him or her in any case in which the interests of justice so require and without payment by him or her in any such case if he or she does not have sufficient means to pay for it;

(iv) the right to a fair and public hearing by a competent, independent, and impartial tribunal established by the law;

(v) the right to be presumed innocent until proved guilty according to law; and

(vi) the right to be tried without undue delay; and

(6) to highlight in the United Nations Human Rights Commission and in other appropriate fora violations of human rights by foreign governments and to seek the support of other governments in urging improvements in human rights practices.

[3] 22 U.S.C. 6902.

SEC. 204.[4] DEFINITIONS.

In this division:

(1) DISPUTE SETTLEMENT UNDERSTANDING.—The term "Dispute Settlement Understanding" means the Understanding on Rules and Procedures Governing the Settlement of Disputes referred to in section 101(d)(16) of the Uruguay Round Agreements Act (19 U.S.C. 3511(16)).

(2) GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA.—The term "Government of the People's Republic of China" means the central Government of the People's Republic of China and any other governmental entity, including any provincial, prefectural, or local entity and any enterprise that is controlled by the central Government or any such governmental entity or as to which the central Government or any such governmental entity is entitled to receive a majority of the profits.

(3) INTERNATIONALLY RECOGNIZED WORKER RIGHTS.—The term "internationally recognized worker rights" has the meaning given that term in section 507(4) of the Trade Act of 1974 (19 U.S.C. 2467(4)) and includes the right to the elimination of the "worst forms of child labor", as defined in section 507(6) of the Trade Act of 1974 (19 U.S.C. 2467(6)).

(4) TRADE REPRESENTATIVE.—The term "Trade Representative" means the United States Trade Representative.

(5) WTO; WORLD TRADE ORGANIZATION.—The terms "WTO" and "World Trade Organization" mean the organization established pursuant to the WTO Agreement.

(6) WTO AGREEMENT.—The term "WTO Agreement" means the Agreement Establishing the World Trade Organization entered into on April 15, 1994.

(7) WTO MEMBER.—The term "WTO member" has the meaning given that term in section 2(10) of the Uruguay Round Agreements Act (19 U.S.C. 3501(10)).

TITLE III—CONGRESSIONAL-EXECUTIVE COMMISSION ON THE PEOPLE'S REPUBLIC OF CHINA

SEC. 301.[5] ESTABLISHMENT OF CONGRESSIONAL-EXECUTIVE COMMISSION ON THE PEOPLE'S REPUBLIC OF CHINA.

There is established a Congressional-Executive Commission on the People's Republic of China (in this title referred to as the "Commission").

SEC. 302.[6] FUNCTIONS OF THE COMMISSION.

(a) MONITORING COMPLIANCE WITH HUMAN RIGHTS.—The Commission shall monitor the acts of the People's Republic of China which reflect compliance with or violation of human rights, in particular, those contained in the International Covenant on Civil and Political Rights and in the Universal Declaration of Human Rights, including, but not limited to, effectively affording—

(1) the right to engage in free expression without fear of any prior restraints;

[4] 22 U.S.C. 6903.
[5] 22 U.S.C. 6911.
[6] 22 U.S.C. 6912.

(2) the right to peaceful assembly without restrictions, in accordance with international law;

(3) religious freedom, including the right to worship free of involvement of and interference by the government;

(4) the right to liberty of movement and freedom to choose a residence within the People's Republic of China and the right to leave from and return to the People's Republic of China;

(5) the right of a criminal defendant—

(A) to be tried in his or her presence, and to defend himself or herself in person or through legal assistance of his or her own choosing;

(B) to be informed, if he or she does not have legal assistance, of the right set forth in subparagraph (A);

(C) to have legal assistance assigned to him or her in any case in which the interests of justice so require and without payment by him or her in any such case if he or she does not have sufficient means to pay for it;

(D) to a fair and public hearing by a competent, independent, and impartial tribunal established by the law;

(E) to be presumed innocent until proved guilty according to law; and

(F) to be tried without undue delay;

(6) the right to be free from torture and other forms of cruel or unusual punishment;

(7) protection of internationally recognized worker rights;

(8) freedom from incarceration as punishment for political opposition to the government;

(9) freedom from incarceration as punishment for exercising or advocating human rights (including those described in this section);

(10) freedom from arbitrary arrest, detention, or exile;

(11) the right to fair and public hearings by an independent tribunal for the determination of a citizen's rights and obligations; and

(12) free choice of employment.

(b) VICTIMS LISTS.—The Commission shall compile and maintain lists of persons believed to be imprisoned, detained, or placed under house arrest, tortured, or otherwise persecuted by the Government of the People's Republic of China due to their pursuit of the rights described in subsection (a). In compiling such lists, the Commission shall exercise appropriate discretion, including concerns regarding the safety and security of, and benefit to, the persons who may be included on the lists and their families.

(c) MONITORING DEVELOPMENT OF RULE OF LAW.—The Commission shall monitor the development of the rule of law in the People's Republic of China, including, but not limited to—

(1) progress toward the development of institutions of democratic governance;

(2) processes by which statutes, regulations, rules, and other legal acts of the Government of the People's Republic of China are developed and become binding within the People's Republic of China;

(3) the extent to which statutes, regulations, rules, administrative and judicial decisions, and other legal acts of the Government of the People's Republic of China are published and are made accessible to the public;

(4) the extent to which administrative and judicial decisions are supported by statements of reasons that are based upon written statutes, regulations, rules, and other legal acts of the Government of the People's Republic of China;

(5) the extent to which individuals are treated equally under the laws of the of the People's Republic of China without regard to citizenship;

(6) the extent to which administrative and judicial decisions are independent of political pressure or governmental interference and are reviewed by entities of appellate jurisdiction; and

(7) the extent to which laws in the People's Republic of China are written and administered in ways that are consistent with international human rights standards, including the requirements of the International Covenant on Civil and Political Rights.

(d) BILATERAL COOPERATION.—The Commission shall monitor and encourage the development of programs and activities of the United States Government and private organizations with a view toward increasing the interchange of people and ideas between the United States and the People's Republic of China and expanding cooperation in areas that include, but are not limited to—

(1) increasing enforcement of human rights described in subsection (a); and

(2) developing the rule of law in the People's Republic of China.

(e) CONTACTS WITH NONGOVERNMENTAL ORGANIZATIONS.—In performing the functions described in subsections (a) through (d), the Commission shall, as appropriate, seek out and maintain contacts with nongovernmental organizations, including receiving reports and updates from such organizations and evaluating such reports.

(f) COOPERATION WITH SPECIAL COORDINATOR.—In performing the functions described in subsections (a) through (d), the Commission shall cooperate with the Special Coordinator for Tibetan Issues in the Department of State.

(g) ANNUAL REPORTS.—The Commission shall issue a report to the President and the Congress not later than 12 months after the date of the enactment of this Act, and not later than the end of each 12-month period thereafter, setting forth the findings of the Commission during the preceding 12-month period, in carrying out subsections (a) through (c). The Commission's report may contain recommendations for legislative or executive action.

(h) SPECIFIC INFORMATION IN ANNUAL REPORTS.—The Commission's report under subsection (g) shall include—[7]

(1) specific information as to the nature and implementation of laws or policies concerning the rights set forth in paragraphs

[7] Sec. 615(1) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public law 107–228; 116 Stat. 1397), struck out "shall include specific information" and inserted in lieu thereof "shall include—(1) specific information" with appropriate indentation. Sec. 615(2) of that Act replaced a period at the end of the subsection with "; and" and sec. 615(3) added para. (2).

(1) through (12) of subsection (a), and as to restrictions applied to or discrimination against persons exercising any of the rights set forth in such paragraphs.

(2)[7] a description of the status of negotiations between the Government of the People's Republic of China and the Dalai Lama or his representatives, and measures taken to safeguard Tibet's distinct historical, religious, cultural, and linguistic identity and the protection of human rights.

(i) CONGRESSIONAL HEARINGS ON ANNUAL REPORTS.—(1) The Committee on International Relations of the House of Representatives shall, not later than 30 days after the receipt by the Congress of the report referred to in subsection (g), hold hearings on the contents of the report, including any recommendations contained therein, for the purpose of receiving testimony from Members of Congress, and such appropriate representatives of Federal departments and agencies, and interested persons and groups, as the committee deems advisable, with a view to reporting to the House of Representatives any appropriate legislation in furtherance of such recommendations. If any such legislation is considered by the Committee on International Relations within 45 days after receipt by the Congress of the report referred to in subsection (g), it shall be reported by the committee not later than 60 days after receipt by the Congress of such report.

(2) The provisions of paragraph (1) are enacted by the Congress—

(A) as an exercise of the rulemaking power of the House of Representatives, and as such are deemed a part of the rules of the House, and they supersede other rules only to the extent that they are inconsistent therewith; and

(B) with full recognition of the constitutional right of the House to change the rules (so far as relating to the procedure of the House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

(j) SUPPLEMENTAL REPORTS.—The Commission may submit to the President and the Congress reports that supplement the reports described in subsection (g), as appropriate, in carrying out subsections (a) through (c).

SEC. 303.[8] MEMBERSHIP OF THE COMMISSION.

(a) SELECTION AND APPOINTMENT OF MEMBERS.—The Commission shall be composed of 23 members as follows:

(1) Nine Members of the House of Representatives appointed by the Speaker of the House of Representatives. Five members shall be selected from the majority party and four members shall be selected, after consultation with the minority leader of the House, from the minority party.

(2) Nine Members of the Senate appointed by the President of the Senate. Five members shall be selected, after consultation with the majority leader of the Senate, from the majority party, and four members shall be selected, after consultation with the minority leader of the Senate, from the minority party.

[8] 22 U.S.C. 6913.

(3) One representative of the Department of State, appointed by the President of the United States from among officers and employees of that Department.

(4) One representative of the Department of Commerce, appointed by the President of the United States from among officers and employees of that Department.

(5) One representative of the Department of Labor, appointed by the President of the United States from among officers and employees of that Department.

(6) Two at-large representatives, appointed by the President of the United States, from among the officers and employees of the executive branch.

(b) CHAIRMAN AND COCHAIRMAN.—

(1) DESIGNATION OF CHAIRMAN.—At the beginning of each odd-numbered Congress, the President of the Senate, on the recommendation of the majority leader, shall designate one of the members of the Commission from the Senate as Chairman of the Commission. At the beginning of each even-numbered Congress, the Speaker of the House of Representatives shall designate one of the members of the Commission from the House as Chairman of the Commission.

(2) DESIGNATION OF COCHAIRMAN.—At the beginning of each odd-numbered Congress, the Speaker of the House of Representatives shall designate one of the members of the Commission from the House as Cochairman of the Commission. At the beginning of each even-numbered Congress, the President of the Senate, on the recommendation of the majority leader, shall designate one of the members of the Commission from the Senate as Cochairman of the Commission.

SEC. 304.[9] VOTES OF THE COMMISSION.

Decisions of the Commission, including adoption of reports and recommendations to the executive branch or to the Congress, shall be made by a majority vote of the members of the Commission present and voting. Two-thirds of the Members of the Commission shall constitute a quorum for purposes of conducting business.

SEC. 305.[10] EXPENDITURE OF APPROPRIATIONS.

For each fiscal year for which an appropriation is made to the Commission, the Commission shall issue a report to the Congress on its expenditures under that appropriation.

SEC. 306.[11] TESTIMONY OF WITNESSES, PRODUCTION OF EVIDENCE; ISSUANCE OF SUBPOENAS; ADMINISTRATION OF OATHS.

In carrying out this title, the Commission may require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, documents, and electronically recorded data as it considers necessary. Subpoenas may be issued only pursuant to a two-thirds vote of members of the Commission present and voting. Subpoenas may be issued over the signature of the Chairman of the Commission or any member designated by the Chairman, and may be served by any person designated by the Chairman or

[9] 22 U.S.C. 6914.
[10] 22 U.S.C. 6915.
[11] 22 U.S.C. 6916.

such member. The Chairman of the Commission, or any member designated by the Chairman, may administer oaths to any witness.

SEC. 307.[12] APPROPRIATIONS FOR THE COMMISSION.

(a) AUTHORIZATION; DISBURSEMENTS.—

(1) AUTHORIZATION.—There are authorized to be appropriated to the Commission for fiscal year 2001, and each fiscal year thereafter, such sums as may be necessary to enable it to carry out its functions. Appropriations to the Commission are authorized to remain available until expended.

(2) DISBURSEMENTS.—Appropriations to the Commission shall be disbursed on vouchers approved—

(A) jointly by the Chairman and the Cochairman; or

(B) by a majority of the members of the personnel and administration committee established pursuant to section 308.

(b) FOREIGN TRAVEL FOR OFFICIAL PURPOSES.—Foreign travel for official purposes by members and staff of the Commission may be authorized by either the Chairman or the Cochairman.

SEC. 308.[13] STAFF OF THE COMMISSION.

(a) PERSONNEL AND ADMINISTRATION COMMITTEE.—The Commission shall have a personnel and administration committee composed of the Chairman, the Cochairman, the senior member of the Commission from the minority party of the House of Representatives, and the senior member of the Commission from the minority party of the Senate.

(b) COMMITTEE FUNCTIONS.—All decisions pertaining to the hiring, firing, and fixing of pay of personnel of the Commission shall be by a majority vote of the personnel and administration committee, except that—

(1) the Chairman shall be entitled to appoint and fix the pay of the staff director, and the Cochairman shall be entitled to appoint and fix the pay of the Cochairman's senior staff member; and

(2) the Chairman and Cochairman shall each have the authority to appoint, with the approval of the personnel and administration committee, at least four professional staff members who shall be responsible to the Chairman or the Cochairman (as the case may be) who appointed them.

Subject to subsection (d), the personnel and administration committee may appoint and fix the pay of such other personnel as it considers desirable.

(c) STAFF APPOINTMENTS.—All staff appointments shall be made without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates.

(d) QUALIFICATIONS OF PROFESSIONAL STAFF.—The personnel and administration committee shall ensure that the professional staff of

[12] 22 U.S.C. 6917.
[13] 22 U.S.C. 6918.

the Commission consists of persons with expertise in areas including human rights, internationally recognized worker rights, international economics, law (including international law), rule of law and other foreign assistance programming, Chinese politics, economy and culture, and the Chinese language.

(e) COMMISSION EMPLOYEES AS CONGRESSIONAL EMPLOYEES.—

(1) IN GENERAL.—For purposes of pay and other employment benefits, rights, and privileges, and for all other purposes, any employee of the Commission shall be considered to be a congressional employee as defined in section 2107 of title 5, United States Code.

(2) COMPETITIVE STATUS.—For purposes of section 3304(c)(1) of title 5, United States Code, employees of the Commission shall be considered as if they are in positions in which they are paid by the Secretary of the Senate or the Clerk of the House of Representatives.

SEC. 309.[14] PRINTING AND BINDING COSTS.

For purposes of costs relating to printing and binding, including the costs of personnel detailed from the Government Printing Office, the Commission shall be deemed to be a committee of the Congress.

TITLE IV—MONITORING AND ENFORCEMENT OF THE PEOPLE'S REPUBLIC OF CHINA'S WTO COMMITMENTS

Subtitle A—Review of Membership of the People's Republic of China in the WTO

SEC. 401.[15] REVIEW WITHIN THE WTO.

It shall be the objective of the United States to obtain as part of the Protocol of Accession of the People's Republic of China to the WTO, an annual review within the WTO of the compliance by the People's Republic of China with its terms of accession to the WTO.

Subtitle B—Authorization To Promote Compliance With Trade Agreements

SEC. 411.[16] FINDINGS.

The Congress finds as follows:

(1) The opening of world markets through the elimination of tariff and nontariff barriers has contributed to a 56-percent increase in exports of United States goods and services since 1992.

(2) Such export expansion, along with an increase in trade generally, has helped fuel the longest economic expansion in United States history.

(3) The United States Government must continue to be vigilant in monitoring and enforcing the compliance by our trading partners with trade agreements in order for United States businesses, workers, and farmers to continue to benefit from the opportunities created by market-opening trade agreements.

[14] 22 U.S.C. 6919.
[15] 22 U.S.C. 6931.
[16] 22 U.S.C. 6941.

(4) The People's Republic of China, as part of its accession to the World Trade Organization, has committed to eliminating significant trade barriers in the agricultural, services, and manufacturing sectors that, if realized, would provide considerable opportunities for United States farmers, businesses, and workers.

(5) For these opportunities to be fully realized, the United States Government must effectively monitor and enforce its rights under the agreements on the accession of the People's Republic of China to the WTO.

SEC. 412.[17] PURPOSE.

The purpose of this subtitle is to authorize additional resources for the agencies and departments engaged in monitoring and enforcement of United States trade agreements and trade laws with respect to the People's Republic of China.

SEC. 413.[18] AUTHORIZATION OF APPROPRIATIONS.

(a) DEPARTMENT OF COMMERCE.—There is authorized to be appropriated to the Department of Commerce, in addition to amounts otherwise available for such purposes, such sums as may be necessary for fiscal year 2001, and each fiscal year thereafter, for additional staff for—

(1) monitoring compliance by the People's Republic of China with its commitments under the WTO, assisting United States negotiators with ongoing negotiations in the WTO, and defending United States antidumping and countervailing duty measures with respect to products of the People's Republic of China;

(2) enforcement of United States trade laws with respect to products of the People's Republic of China; and

(3) a Trade Law Technical Assistance Center to assist small- and medium-sized businesses, workers, and unions in evaluating potential remedies available under the trade laws of the United States with respect to trade involving the People's Republic of China.

(b) OVERSEAS COMPLIANCE PROGRAM.—

(1) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated to the Department of Commerce and the Department of State, in addition to amounts otherwise available, such sums as may be necessary for fiscal year 2001, and each fiscal year thereafter, to provide staff for monitoring in the People's Republic of China that country's compliance with its international trade obligations and to support the enforcement of the trade laws of the United States, as part of an Overseas Compliance Program which monitors abroad compliance with international trade obligations and supports the enforcement of United States trade laws.

(2) REPORTING.—The annual report on compliance by the People's Republic of China submitted to the Congress under section 421 of this Act shall include the findings of the Overseas Compliance Program with respect to the People's Republic of China.

[17] 22 U.S.C. 6942.
[18] 22 U.S.C. 6943.

(c) UNITED STATES TRADE REPRESENTATIVE.—There are authorized to be appropriated to the Office of the United States Trade Representative, in addition to amounts otherwise available for such purposes, such sums as may be necessary for fiscal year 2001, and each fiscal year thereafter, for additional staff in—

(1) the Office of the General Counsel, the Monitoring and Enforcement Unit, and the Office of the Deputy United States Trade Representative in Geneva, Switzerland, to investigate, prosecute, and defend cases before the WTO, and to administer United States trade laws, including title III of the Trade Act of 1974 (19 U.S.C. 2411 et seq.) and other trade laws relating to intellectual property, government procurement, and telecommunications, with respect to the People's Republic of China;

(2) the Office of Economic Affairs, to analyze the impact on the economy of the United States, including United States exports, of acts of the Government of the People's Republic of China affecting access to markets in the People's Republic of China and to support the Office of the General Counsel in presenting cases to the WTO involving the People's Republic of China;

(3) the geographic office for the People's Republic of China; and

(4) offices relating to the WTO and to different sectors of the economy, including agriculture, industry, services, and intellectual property rights protection, to monitor and enforce the trade agreement obligations of the People's Republic of China in those sectors.

(d) DEPARTMENT OF AGRICULTURE.—There are authorized to be appropriated to the Department of Agriculture, in addition to amounts otherwise available for such purposes, such sums as may be necessary for fiscal year 2001, and each fiscal year thereafter, for additional staff to increase legal and technical expertise in areas covered by trade agreements and United States trade law, including food safety and biotechnology, for purposes of monitoring compliance by the People's Republic of China with its trade agreement obligations.

Subtitle C—Report on Compliance by the People's Republic of China With WTO Obligations

SEC. 421.[19] REPORT ON COMPLIANCE.

(a) IN GENERAL.—Not later than 1 year after the entry into force of the Protocol of Accession of the People's Republic of China to the WTO, and annually thereafter, the Trade Representative shall submit a report to Congress on compliance by the People's Republic of China with commitments made in connection with its accession to the World Trade Organization, including both multilateral commitments and any bilateral commitments made to the United States.

[19] 22 U.S.C. 6951.

(b) PUBLIC PARTICIPATION.—In preparing the report described in subsection (a), the Trade Representative shall seek public participation by publishing a notice in the Federal Register and holding a public hearing.

TITLE V—TRADE AND RULE OF LAW ISSUES IN THE PEOPLE'S REPUBLIC OF CHINA

Subtitle A—Task Force on Prohibition of Importation of Products of Forced or Prison Labor From the People's Republic of China

SEC. 501.[20] ESTABLISHMENT OF TASK FORCE.

There is hereby established a task force on prohibition of importation of products of forced or prison labor from the People's Republic of China (hereafter in this subtitle referred to as the "Task Force").

SEC. 502.[21] FUNCTIONS OF TASK FORCE.

The Task Force shall monitor and promote effective enforcement of and compliance with section 307 of the Tariff Act of 1930 (19 U.S.C. 1307) by performing the following functions:

(1) Coordinate closely with the United States Customs Service to promote maximum effectiveness in the enforcement by the Customs Service of section 307 of the Tariff Act of 1930 with respect to the products of the People's Republic of China. In order to assure such coordination, the Customs Service shall keep the Task Force informed, on a regular basis, of the progress of its investigations of allegations that goods are being entered into the United States, or that such entry is being attempted, in violation of the prohibition in section 307 of the Tariff Act of 1930 on entry into the United States of goods mined, produced, or manufactured wholly or in part in the People's Republic of China by convict labor, forced labor, or indentured labor under penal sanctions. Such investigations may include visits to foreign sites where goods allegedly are being mined, produced, or manufactured in a manner that would lead to prohibition of their importation into the United States under section 307 of the Tariff Act of 1930.

(2) Make recommendations to the Customs Service on seeking new agreements with the People's Republic of China to allow Customs Service officials to visit sites where goods may be mined, produced, or manufactured by convict labor, forced labor, or indentured labor under penal sanctions.

(3) Work with the Customs Service to assist the People's Republic of China and other foreign governments in monitoring the sale of goods mined, produced, or manufactured by convict labor, forced labor, or indentured labor under penal sanctions to ensure that such goods are not exported to the United States.

(4) Coordinate closely with the Customs Service to promote maximum effectiveness in the enforcement by the Customs Service of section 307 of the Tariff Act of 1930 with respect to

[20] 22 U.S.C. 6961.
[21] 22 U.S.C. 6962.

the products of the People's Republic of China. In order to assure such coordination, the Customs Service shall keep the Task Force informed, on a regular basis, of the progress of its monitoring of ports of the United States to ensure that goods mined, produced, or manufactured wholly or in part in the People's Republic of China by convict labor, forced labor, or indentured labor under penal sanctions are not imported into the United States.

(5) Advise the Customs Service in performing such other functions, consistent with existing authority, to ensure the effective enforcement of section 307 of the Tariff Act of 1930.

(6) Provide to the Customs Service all information obtained by the departments represented on the Task Force relating to the use of convict labor, forced labor, or/and indentured labor under penal sanctions in the mining, production, or manufacture of goods which may be imported into the United States.

SEC. 503.[22] COMPOSITION OF TASK FORCE.

The Secretary of the Treasury, the Secretary of Commerce, the Secretary of Labor, the Secretary of State, the Commissioner of Customs, and the heads of other executive branch agencies, as appropriate, acting through their respective designees at or above the level of Deputy Assistant Secretary, or in the case of the Customs Service, at or above the level of Assistant Commissioner, shall compose the Task Force. The designee of the Secretary of the Treasury shall chair the Task Force.

SEC. 504.[23] AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for fiscal year 2001, and each fiscal year thereafter, such sums as may be necessary for the Task Force to carry out the functions described in section 502.

SEC. 505.[24] REPORTS TO CONGRESS.

(a) FREQUENCY OF REPORTS.—Not later than the date that is 1 year after the date of the enactment of this Act, and not later than the end of each 1-year period thereafter, the Task Force shall submit to the Congress a report on the work of the Task Force during the preceding 1-year period.

(b) CONTENTS OF REPORTS.—Each report under subsection (a) shall set forth, at a minimum—

(1) the number of allegations of violations of section 307 of the Tariff Act of 1930 with respect to products of the Peoples' Republic of China that were investigated during the preceding 1-year period;

(2) the number of actual violations of section 307 of the Tariff Act of 1930 with respect to the products of the People's Republic of China that were discovered during the preceding 1-year period;

(3) in the case of each attempted entry of products of the People's Republic of China in violation of such section 307 discovered during the preceding 1-year period—

(A) the identity of the exporter of the goods;

[22] 22 U.S.C. 6963.
[23] 22 U.S.C. 6964.
[24] 22 U.S.C. 6965.

(B) the identity of the person or persons who attempted to sell the goods for export; and

(C) the identity of all parties involved in transshipment of the goods; and

(4) such other information as the Task Force considers useful in monitoring and enforcing compliance with section 307 of the Tariff Act of 1930.

Subtitle B—Assistance To Develop Commercial and Labor Rule of Law

SEC. 511.[25] ESTABLISHMENT OF TECHNICAL ASSISTANCE AND RULE OF LAW PROGRAMS.

(a) COMMERCE RULE OF LAW PROGRAM.—The Secretary of Commerce, in consultation with the Secretary of State, is authorized to establish a program to conduct rule of law training and technical assistance related to commercial activities in the People's Republic of China.

(b) LABOR RULE OF LAW PROGRAM.—

(1) IN GENERAL.—The Secretary of Labor, in consultation with the Secretary of State, is authorized to establish a program to conduct rule of law training and technical assistance related to the protection of internationally recognized worker rights in the People's Republic of China.

(2) USE OF AMOUNTS.—In carrying out paragraph (1), the Secretary of Labor shall focus on activities including, but not limited to—

(A) developing, laws, regulations, and other measures to implement internationally recognized worker rights;

(B) establishing national mechanisms for the enforcement of national labor laws and regulations;

(C) training government officials concerned with implementation and enforcement of national labor laws and regulations; and

(D) developing an educational infrastructure to educate workers about their legal rights and protections under national labor laws and regulations.

(3) LIMITATION.—The Secretary of Labor may not provide assistance under the program established under this subsection to the All-China Federation of Trade Unions.

(c) LEGAL SYSTEM AND CIVIL SOCIETY RULE OF LAW PROGRAM.—The Secretary of State is authorized to establish a program to conduct rule of law training and technical assistance related to development of the legal system and civil society generally in the People's Republic of China.

(d) CONDUCT OF PROGRAMS.—The programs authorized by this section may be used to conduct activities such as seminars and workshops, drafting of commercial and labor codes, legal training, publications, financing the operating costs for nongovernmental organizations working in this area, and funding the travel of individuals to the United States and to the People's Republic of China to provide and receive training.

[25] 22 U.S.C. 6981.

SEC. 512.[26] ADMINISTRATIVE AUTHORITIES.

In carrying out the programs authorized by section 511, the Secretary of Commerce and the Secretary of Labor (in consultation with the Secretary of State) may utilize any of the authorities contained in the Foreign Assistance Act of 1961 and the Foreign Service Act of 1980.

SEC. 513.[27] PROHIBITION RELATING TO HUMAN RIGHTS ABUSES.

Amounts made available to carry out this subtitle may not be provided to a component of a ministry or other administrative unit of the national, provincial, or other local governments of the People's Republic of China, to a nongovernmental organization, or to an official of such governments or organizations, if the President has credible evidence that such component, administrative unit, organization or official has been materially responsible for the commission of human rights violations.

SEC. 514.[28] AUTHORIZATION OF APPROPRIATIONS.

(a) COMMERCIAL LAW PROGRAM.—There are authorized to be appropriated to the Secretary of Commerce to carry out the program described in section 511(a) such sums as may be necessary for fiscal year 2001, and each fiscal year thereafter.

(b) LABOR LAW PROGRAM.—There are authorized to be appropriated to the Secretary of Labor to carry out the program described in section 511(b) such sums as may be necessary for fiscal year 2001, and each fiscal year thereafter.

(c) LEGAL SYSTEM AND CIVIL SOCIETY RULE OF LAW PROGRAM.—There are authorized to be appropriated to the Secretary of State to carry out the program described in section 511(c) such sums as may be necessary for fiscal year 2001, and each fiscal year thereafter.

(d) CONSTRUCTION WITH OTHER LAWS.—Except as provided in this division, funds may be made available to carry out the purposes of this subtitle notwithstanding any other provision of law.

TITLE VI—ACCESSION OF TAIWAN TO THE WTO

SEC. 601.[29] ACCESSION OF TAIWAN TO THE WTO.

It is the sense of the Congress that—

(1) immediately upon approval by the General Council of the WTO of the terms and conditions of the accession of the People's Republic of China to the WTO, the United States representative to the WTO should request that the General Council of the WTO consider Taiwan's accession to the WTO as the next order of business of the Council during the same session; and

(2) the United States should be prepared to aggressively counter any effort by any WTO member, upon the approval of the General Council of the WTO of the terms and conditions of the accession of the People's Republic of China to the WTO, to block the accession of Taiwan to the WTO.

[26] 22 U.S.C. 6982.
[27] 22 U.S.C. 6983.
[28] 22 U.S.C. 6984.
[29] 22 U.S.C. 6991.

TITLE VII—RELATED ISSUES

SEC. 701.[30] AUTHORIZATIONS OF APPROPRIATIONS FOR BROADCASTING CAPITAL IMPROVEMENTS AND INTERNATIONAL BROADCASTING OPERATIONS.

(a) BROADCASTING CAPITAL IMPROVEMENTS.—In addition to such sums as may otherwise be authorized to be appropriated, there are authorized to be appropriated for "Department of State and Related Agency, Related Agency, Broadcasting Board of Governors, Broadcasting Capital Improvements" $65,000,000 for the fiscal year 2003.[31]

(b) INTERNATIONAL BROADCASTING OPERATIONS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—In addition to such sums as are otherwise authorized to be appropriated, there are authorized to be appropriated $34,000,000 for each of the fiscal years 2001, 2002, and 2003[32] for "Department of State and Related Agency, Related Agency, Broadcasting Board of Governors, International Broadcasting Operations" for the purposes under paragraph (2).

(2) USES OF FUNDS.—In addition to other authorized purposes, funds appropriated pursuant to paragraph (1) shall be used for the following:

(A) To increase personnel for the program development office to enhance marketing programming in the People's Republic of China and neighboring countries.

(B) To enable Radio Free Asia's expansion of news research, production, call-in show capability, and web site/Internet enhancement for the People's Republic of China and neighboring countries.

(C) VOA enhancements, including the opening of new news bureaus in Taipei and Shanghai, enhancement of TV Mandarin, and an increase of stringer presence abroad.

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[30] 22 U.S.C. 7001.

[31] Sec. 121(b)(1) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public law 107–228; 116 Stat. 1361), struck out "2001" and inserted in lieu thereof "2003".

[32] Sec. 121(b)(2) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public law 107–228; 116 Stat. 1361), struck out "2001 and 2003" and inserted in lieu thereof "2001, 2002, and 2003".

(4) Pakistan—Exemption of Foreign Assistance Prohibitions

Public Law 107–57 [S. 1465], 115 Stat. 403, approved October 27, 2001; as amended by Public Law 108–106 [Emergency Supplemental appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004; H.R. 3289], 117 Stat. 1209, approved November 6, 2003; Public Law 108–447 [Consolidated Appropriations Act, 2005; H.R. 4818], 118 Stat. 2809, approved December 8, 2004; and by Public Law 108–458 [Intelligence Reform and Terrorism Prevention Act of 2004; S. 2845], 118 Stat. 3638, approved December 17, 2004

AN ACT To authorize the President to exercise waivers of foreign assistance restrictions with respect to Pakistan through September 30, 2003, and for other purposes.

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

SECTION 1. EXEMPTIONS AND WAIVER OF APPROPRIATIONS ACT PROHIBITIONS WITH RESPECT TO PAKISTAN.

(a) FISCAL YEAR 2002 AND PRIOR FISCAL YEARS.—

(1) EXEMPTIONS.—Any provision of the foreign operations, export financing, and related programs appropriations Act for fiscal year 2002, or any provision of such Act for a prior fiscal year, that prohibits direct assistance to a country whose duly elected head of government was deposed by decree or military coup shall not apply with respect to Pakistan.

(2) PRIOR CONSULTATION REQUIRED.—Not less than 5 days prior to the obligation of funds for Pakistan under paragraph (1), the President shall consult with the appropriate congressional committees with respect to such obligation.

(b) FISCAL YEAR 2005.—[1]

(1)[2] WAIVER.—The President is authorized to waive, with respect to Pakistan, any provision of the foreign operations, export financing, and related programs appropriations Act for fiscal year 2005[3] that prohibits direct assistance to a country

[1] Sec. 534(n)(1) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809) struck out "2004" and inserted in lieu thereof "2005". Previously, sec. 2213(1) of Public Law 108–106 (117 Stat. 1232) struck out "2003" and inserted in lieu thereof "2004".

Sec. 7103(c)(1)(A) of the 9/11 Commission Implementation Act of 2004 (title VII of Public Law 108–458; 118 Stat. 3638) sought to strike out "FISCAL YEAR 2004" and insert in lieu thereof "FISCAL YEARS 2005 and 2006" in the subsection heading. Technically, this amendment is not executable because of the earlier executed amendment enacted in Public Law 108–447.

[2] On March 14, 2003, the President determined that a waiver of the coup-related sanctions imposed against Pakistan "would facilitate the transition to democratic rule in Pakistan; and is important to United States efforts to respond to, deter, or prevent acts of international terrorism" and thus waived the sanctions for FY 2003 (Presidential Determination No. 2003–16; 68 F.R. 13803). The President waived the sanctions for 2004 in Presidential Determination No. 2004–26 of March 24, 2004 (69 F.R. 21675).

[3] Sec. 534(n)(1) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809) struck out "2004" and inserted in lieu thereof "2005". Previously, sec. 2213(1) of Public Law 108–106 (117 Stat. 1232) struck out "2003" and inserted in lieu thereof "2004".

Sec. 7103(c)(1)(B) of the 9/11 Commission Implementation Act of 2004 (title VII of Public Law 108–458; 118 Stat. 3638) sought to strike out "2004" and insert in lieu thereof "2005 or 2006".

Continued

whose duly elected head of government was deposed by decree or military coup, if the President determines and certifies to the appropriate congressional committees that such waiver—

(A) would facilitate the transition to democratic rule in Pakistan; and

(B) is important to United States efforts to respond to, deter, or prevent acts of international terrorism.

(2) PRIOR CONSULTATION REQUIRED.—Not less than 5 days prior to the exercise of the waiver authority under paragraph (1), the President shall consult with the appropriate congressional committees with respect to such waiver.

SEC. 2. INCREASED FLEXIBILITY IN THE EXERCISE OF WAIVER AUTHORITY OF MTCR AND EXPORT ADMINISTRATION ACT SANCTIONS WITH RESPECT TO PAKISTAN.

Any waiver under 73(e) of the Arms Export Control Act (22 U.S.C. 2797b(e)), or under section 11B(b)(5) of the Export Administration Act of 1979 (50 U.S.C. App. 2410b(b)(5)) (or successor statute), with respect to a sanction that was imposed on foreign persons in Pakistan prior to January 1, 2001, may be exercised—

(1) only after consultation with the appropriate congressional committees; and

(2) without regard to the notification periods set forth in the respective section authorizing the waiver.

SEC. 3. EXEMPTION OF PAKISTAN FROM FOREIGN ASSISTANCE PROHIBITIONS RELATING TO FOREIGN COUNTRY LOAN DEFAULTS.

The following provisions of law shall not apply with respect to Pakistan:

(1) Section 620(q) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(q)).

(2) Such provision of the annual foreign operations, export financing, and related programs appropriations Acts for fiscal years, 2002, 2003, 2004, and 2005, as are[4] comparable to section 512 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001 (Public Law 106–429; 114 Stat. 1900A–25).

SEC. 4. MODIFICATION OF NOTIFICATION DEADLINES FOR DRAWDOWNS AND TRANSFER OF EXCESS DEFENSE ARTICLES TO RESPOND TO, DETER, OR PREVENT ACTS OF INTERNATIONAL TERRORISM.

(a) DRAWDOWNS.—Notwithstanding the second sentence of section 506(b)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2318(b)(1)), each notification under that section with respect to any drawdown authorized by subclause (III) of subsection (a)(2)(A)(i)

Technically, this amendment is not executable because of the earlier executed amendment enacted in Public Law 108–447.

[4] Sec. 534(n)(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), struck out "and 2004" and inserted in lieu thereof "2004 and 2005". Previously, sec. 2213(2) of Public Law 108–106 (117 Stat. 1232) struck out "Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002, as is" and inserted in lieu thereof "annual foreign operations, export financing, and related programs appropriations Acts for fiscal years, 2002, 2003, and 2004, as are".

Sec. 7103(c)(2) of the 9/11 Commission Implementation Act of 2004 (title VII of Public Law 108–458; 118 Stat. 3638) sought to strike out "and 2004" and insert in lieu thereof "2004, 2005 and 2006". Technically, this amendment is not executable because of the earlier executed amendment enacted in Public Law 108–447.

that the President determines is important to United States efforts to respond to, deter, or prevent acts of international terrorism shall be made at least 5 days in advance of the drawdown in lieu of the 15-day requirement in that section.

(b) TRANSFERS OF EXCESS DEFENSE ARTICLES.—Notwithstanding section 516(f)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(f)(1)), each notification under that section with respect to any transfer of an excess defense article that the President determines is important to United States efforts to respond to, deter, or prevent acts of international terrorism shall be made at least 15 days in advance of the transfer in lieu of the 30-day requirement in that section.

SEC. 5. APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.

In this Act, the term "appropriate congressional committees" means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on International Relations and the Committee on Appropriations of the House of Representatives.

SEC. 6. TERMINATION DATE.

Except as otherwise provided in section 1 or 3, the provisions of this Act shall terminate on October 1, 2005.[5]

[5] Sec. 534(n)(3) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), struck out "2004" and inserted in lieu thereof "2005". Previously, sec. 2213(3) of Public Law 108–106 (117 Stat. 1232) struck out "2003" and inserted in lieu thereof "2004".

Sec. 7103(c)(3) of the 9/11 Commission Implementation Act of 2004 (title VII of Public Law 108–458; 118 Stat. 3638) sought to strike out "2004" and insert in lieu thereof "2006". Technically, this amendment is not executable because of the earlier executed amendment enacted in Public Law 108–447.

(5) Waiver of Certain Sanctions Against India and Pakistan

Title IX of the Department of Defense Appropriations Act, 2000 [Public Law 106–79; H.R. 2561], 113 Stat. 1212 at 1283, approved October 25, 1999; amended by Public Law 107–228 [Foreign Relations Authorization Act, Fiscal Year 2003; H.R. 1646], 116 Stat. 1350, approved September 30, 2002

AN ACT Making appropriations for the Department of Defense for the fiscal year ending September 30, 2000, and for other purposes.

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

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TITLE IX

WAIVER OF CERTAIN SANCTIONS AGAINST INDIA AND PAKISTAN

SEC. 9001.[1] (a) WAIVER AUTHORITY.—Except as provided in subsections (b) and (c) of this section, the President may waive, with respect to India and Pakistan, the application of any sanction contained in section 101 or 102 of the Arms Export Control Act (22 U.S.C. 2799aa or 22 U.S.C. 2799aa–1), section 2(b)(4) of the Export Import Bank Act of 1945 (12 U.S.C. 635(b)(4)), or section 620E(e) of the Foreign Assistance Act of 1961, as amended, (22 U.S.C. 2375(e)).

(b) EXCEPTION.—The authority to waive the application of a sanction or prohibition (or portion thereof) under subsection (a) shall not apply with respect to a sanction or prohibition contained in subparagraph (B), (C), or (G) of section 102(b)(2) of the Arms Export Control Act, unless the President determines, and so certifies to the Congress, that the application of the restriction would not be in the national security interests of the United States.

(c) TERMINATION OF WAIVER.—The President may not exercise the authority of subsection (a), and any waiver previously issued under subsection (a) shall cease to apply, with respect to India or Pakistan, if that country detonates a nuclear explosive device after the date of the enactment of this Act or otherwise takes such action which would cause the President to report pursuant to section 102(b)(1) of the Arms Export Control Act.

(d) TARGETED SANCTIONS.—

(1) SENSE OF THE CONGRESS.—

(A) it is the sense of the Congress that the broad application of export controls to nearly 300 Indian and Pakistani entities is inconsistent with the specific national security interests of the United States and that this control list requires refinement; and

[1] 22 U.S.C. 2799aa–1 note.

(B) export controls should be applied only to those Indian and Pakistani entities that make direct and material contributions to weapons of mass destruction and missile programs and only to those items that can contribute to such programs.

(2) REPORTING REQUIREMENT.—Not later than 60 days after the date of the enactment of this Act, the President shall submit both a classified and unclassified report to the appropriate congressional committees listing those Indian and Pakistani entities whose activities contribute to missile programs or weapons of mass destruction programs.

(e) CONGRESSIONAL NOTIFICATION.—The issuance of a license for export of a defense article, defense service, or technology under the authority of this section shall be subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act (22 U.S.C. 2776(c)), including the transmittal of information and the application of congressional review procedures. The application of these requirements shall be subject to the dollar amount thresholds specified in that section.[2]

(f) REPEAL.—The India-Pakistan Relief Act (title IX of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999, as contained in section 101(a) of Public Law 105–277) is repealed effective October 21, 1999.

[2] Sec. 1405(b) of Public Law 107–228 (116 Stat. 1458) added this sentence.

(6) India-Pakistan Relief Act of 1998

Section 101(a), Title IX, of Public Law 105–277 [Omnibus Consolidated and Emergency Supplemental Appropriations Act for Fiscal Year 1999; H.R. 4328], 112 Stat. 2681, approved October 21, 1998; repealed by Public Law 106–79 [Department of Defense Appropriations Act, 2000; H.R. 2561], 113 Stat. 1212, approved October 25, 1999

NOTE.—Sec. 9001(f) of the Department of Defense Appropriations Act, 2000 (113 Stat. 1284) repealed the India-Pakistan Relief Act of 1998 in its entirety. See, however, sec. 9001(a) through (e) of that Act, laid out in notes at sec. 101 of the Arms Export Control Act, and in volume I–B of this compilation, which extends for an indefinite period of time the President's authority to waive certain sanctions imposed against India and Pakistan pursuant to sections 101 or 102 of the Arms Export Control Act, section 2(b)(4) of the Export-Import Bank Act of 1945, or section 620E(e) of the Foreign Assistance Act of 1961, as amended.

(7) Agriculture Export Relief Act of 1998

Public Law 105–194 [S. 2282], 112 Stat. 627, approved July 14, 1998

AN ACT To amend the Arms Export Control Act, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Agriculture Export Relief Act of 1998".

SEC. 2. SANCTIONS EXEMPTIONS.

(a) EXEMPTION REGARDING FOOD AND OTHER AGRICULTURAL COMMODITY PURCHASES.—Section 102(b)(2)(D) of the Arms Export Control Act (22 U.S.C. 2799aa–1(b)(2)(D)) is amended as follows:

(1) In clause (i) by striking "or" at the end.

(2) In clause (ii) by striking the period and inserting ", or".

(3) By inserting after clause (ii) the following new clause:

"(iii) to any credit, credit guarantee, or financial assistance provided by the Department of Agriculture to support the purchase of food or other agricultural commodity.".

(b) DESCRIPTION OF AGRICULTURAL COMMODITIES.—Section 102(b)(2)(F) of such Act is amended by striking the period at the end and inserting ", which includes fertilizer.".

(c) OTHER EXEMPTIONS.—Section 102(b)(2)(D)(ii) of such Act is further amended by inserting after "to" the following: "medicines, medical equipment, and".

(d) APPLICATION OF AMENDMENTS.—The amendment made by subsection (a)(3) shall apply to any credit, credit guarantee, or other financial assistance provided by the Department of Agriculture before, on, or after the date of enactment of this Act through September 30, 1999.

(e)[1] EFFECT ON EXISTING SANCTIONS.—Any sanction imposed under section 102(b)(1) of the Arms Export Control Act before the date of the enactment of this Act shall cease to apply upon that date with respect to the items described in the amendments made by subsections (b) and (c). In the case of the amendment made by subsection (a)(3), any sanction imposed under section 102(b)(1) of the Arms Export Control Act before the date of the enactment of this Act shall not be in effect during the period beginning on that date and ending on September 30, 1999, with respect to the activities and items described in the amendment.

[1] 22 U.S.C. 2799aa–1 note.

(8) Bangladesh Disaster Assistance Act of 1988

Public Law 100–576 [H.R. 5389], 102 Stat. 2897, approved October 31, 1988

AN ACT Concerning disaster assistance for Bangladesh.

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

SECTION 1.[1] SHORT TITLE.

This Act may be cited as the "Bangladesh Disaster Assistance Act of 1988".

SEC. 2. FINDINGS.

The Congress finds that—

(1) as a result of the 1988 floods, two-thirds of Bangladesh has been inundated with flood waters;

(2) over 30 million people in Bangladesh are homeless, over 2000 dead, tens of thousands ill, and potentially millions at risk of waterborne disease and epidemic because of lack of safe water and overcrowding;

(3) transportation, communications, and normal commerce in Bangladesh have been seriously interrupted, with a potential cost of replacing destroyed or damaged infrastructure of $500,000,000;

(4) agricultural lands have been flooded, with a potential crop loss of nearly $1,000,000,000;

(5) the people of the United States have respected and generously supported the efforts of the people of Bangladesh to maintain their independence, promote equitable economic growth, and strive for political pluralism and greater democracy; and

(6) the Government of Bangladesh has taken quick action to cope with this disaster, one of the most serious in the history of Bangladesh, but must rely on a generous response from the international community for emergency assistance and, even more importantly, for the expertise and resources needed to prevent the continual recurrence of such disastrous floods.

SEC. 3. COMMENDATION OF AND SUPPORT FOR THE PEOPLE OF BANGLADESH.

The Congress—

(1) commends the courage and resourcefulness demonstrated by the people of Bangladesh in response to the 1988 floods;

(2) commends the President for the generous provision by the United States of emergency assistance for Bangladesh;

(3) commends United States private and voluntary organizations, international organizations, foreign governments, and

[1] 7 U.S.C. 1691 note.

others for their compassionate response to this natural disaster;

(4) expresses its support for the people of Bangladesh at this most critical time;

(5) declares its willingness to work with the President to provide generous levels of emergency humanitarian assistance to the people of Bangladesh;

(6) declares its willingness to work with the Government of Bangladesh and with private and voluntary organizations to ensure that emergency assistance quickly reaches those most in need; and

(7) declares its willingness to work with the international community to seek the means to prevent a recurrence of such natural disasters, and urges the President to promote a regional solution designed to prevent a recurrence of such natural disasters.

SEC. 4. EMERGENCY ASSISTANCE FOR BANGLADESH.

(a) USE OF FOOD FOR DEVELOPMENT LOCAL CURRENCIES FOR DISASTER ASSISTANCE.—(1)[2] * * *

(2)[3] Food for Development agreements entered into under title III of that Act before the date of enactment of this Act may be amended in order to implement the amendment made by paragraph (1).

(3) Pending amendment pursuant to paragraph (2) Food for Development agreements with the Government of Bangladesh, the use of funds accruing under those agreements, with the approval of the United States Government, for flood-related disaster assistance authorized by the amendment made by paragraph (1) shall be deemed to be consistent with the applicable agreement.

(b) ADDITIONAL FUNDS FOR DISASTER ASSISTANCE FOR BANGLADESH.—It is the sense of the Congress that, in order to provide additional resources for disaster assistance for the victims of the 1988 floods in Bangladesh, not less than $100,000,000 of the local currencies generated under Food for Development agreements with the Government of Bangladesh should be used for the disaster relief, rehabilitation, and reconstruction assistance purposes authorized by the amendment made by subsection (a)(1).

(c) REGULAR ASSISTANCE PROGRAMS TO BE MAINTAINED.—Disaster assistance provided for Bangladesh by the United States because of the 1988 floods should be in addition to the regularly programmed assistance for that country for fiscal year 1989 under chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance) and titles I, II, and III of the Agriculture Trade Development and Assistance Act of 1954 (relating to food assistance); and the level of such regularly programmed assistance.

(d) EXTENSION OF PERIOD FOR USE OF FOOD FOR DEVELOPMENT LOCAL CURRENCIES.—It is the sense of the Congress that the period, during which funds accruing under Food for Development

[2] Sec. 4(a)(1) amended sec. 301 of the Agricultural Trade Development and Assistance Act of 1954, which was subsequently amended by title XV of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3359).

[3] 7 U.S.C. 1727 note.

agreements with the Government of Bangladesh must be used, should be extended from September 30, 1989, to at least September 30, 1990.

SEC. 5. REPORT TO CONGRESS.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the President shall submit to the Congress a report on efforts by the international community and the governments of the region to develop regional programs for the Ganges basin and the Brahmaputra basin that are designed—

(1) to ensure an equitable and predictable supply of water in the dry season; and

(2) to promote better flood control mechanisms to mitigate in the mid-term, and prevent in the long-term, floods as severe as the 1988 floods in Bangladesh.

(b) SPECIFIC REQUIREMENTS.—The report required by subsection (a)—

(1) shall describe what efforts have been made by international organizations and other international institutions, by bilateral and multilateral assistance donors, and by countries in the region, to achieve the objectives set forth in subsection (a);

(2) shall describe the feasibility studies, planning studies, or actual projects that are in preparation or have been completed to achieve those objectives;

(3) shall analyze the potential costs, the technology obstacles (such as those presented by the earthquakes to which the region is prone), and the political problems, that stand in the way of effective flood control in the Ganges basin and the Brahmaputra basin;

(4) shall describe the environmental causes of the flood, particularly deforestation and soil erosion; and

(5) shall describe the efforts made, and the efforts proposed to be made, by the President to promote a regional approach to achieving the objectives set forth in subsection (a).

SEC. 6. OFFICE OF TECHNOLOGY ASSESSMENT.

It is the sense of the Congress that the Office of Technology Assessment—

(1) should cooperate in the effort described in section 5; and

(2) in particular, should provide to the Department of State and the Congress—

(A) a synopsis of all current studies and reports—

(i) on flood control in the Ganges basin and the Brahmaputra basin, or

(ii) on state-of-the-art technology available for the construction and maintenance of flood control projects, and

(B) any cost benefit analysis of efforts to improve water availability in the dry season and to mitigate or prevent severe flooding.

g. Anglo-Irish Agreement Support Act of 1986 [1]

Partial text of Public Law 99–415 [H.R. 4329], 100 Stat. 947, approved September 19, 1986; amended by Public Law 105–277 [Foreign Relations Authorization Act, Fiscal Years 1998 and 1999, subdivision B of division G of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; H.R. 4328], 112 Stat 2681, approved October 21, 1998

AN ACT To authorize United States contributions to the International Fund established pursuant to the November 15, 1985, agreement between the United Kingdom and Ireland, as well as other assistance.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Anglo-Irish Agreement Support Act of 1986".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that the Anglo-Irish Agreement is a clear demonstration of the determination of the Government of the United Kingdom and the Government of Ireland to make progress concerning the complex situation in Northern Ireland. The Congress strongly supports the Anglo-Irish Agreement and is particularly encouraged that these two neighboring countries, longstanding friends of the United States, have joined together to rebuild a land that has too often been the scene of economic hardship and where many have suffered severely from the consequences of violence in recent years. In recognition of our ties of kinship, history, and commitment to democratic values, the Congress believes the United Stats should participate in this renewed commitment to social and economic progress in Northern Ireland and affected areas of Ireland.

(b) PURPOSES.—It is, therefore, the purpose of the Act to provide for United States contributions in support of the Anglo-Irish Agreement, such contributions to consist of economic support fund assistance for payment to the International Fund established pursuant to the Anglo-Irish Agreement, as well as other assistance to serve as an incentive for economic development and reconciliation in Ireland and Northern Ireland. The purpose of these United States contributions shall be to support the Anglo-Irish Agreement in promoting reconciliation in Northern Ireland and the establishment of a society in Northern Ireland in which all may live in peace, free

[1] See also the Irish Peace Process Cultural and Training Program Act of 1998 (Public Law 105–319; 112 Stat. 3013; 8 U.S.C. 1101 note), authorizing the establishment of a program "to allow young people from disadvantaged areas of designated counties suffering from sectarian violence and high structural unemployment to enter the United States for the purpose of developing job skills and conflict resolution abilities . . .", in *Legislation on Foreign Relations Through 2004*, vol. II.

from discrimination, terrorism, and intolerance, and with the opportunity for both communities to participate fully in the structures and processes of government. "United States contributions should be used in a manner that effectively increases employment opportunities in communities with rates of unemployment higher than the local or urban average of unemployment in Northern Ireland. In addition, such contributions should be used to benefit individuals residing in such communities.[2]

SEC. 3. UNITED STATES CONTRIBUTIONS TO THE INTERNATIONAL FUND.

(a) FISCAL YEAR 1986.—Of the amounts made available for the fiscal year 1986 to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund), $50,000,000 shall be used for United States contributions to the International Fund. Pending the formal establishment of the International Fund and submission of the certification required by section 5(c) of this Act, these funds may, pursuant to an agreement with the Government of the United Kingdom and the Government of Ireland, be disbursed into and maintained in a separate account.

(b) FISCAL YEARS 1987 AND 1988.—Of the amounts made available for each of the fiscal years 1987 and 1988 to carry out this chapter, $35,000,000 shall be used for United States contributions to the International Fund; and that amount is hereby authorized to be appropriated for each of those fiscal years to carry out that chapter (in addition to amounts otherwise authorized to be appropriated). Amounts appropriated pursuant to this subsection are authorized to remain available until expended.[3]

SEC. 4. OTHER ASSISTANCE.

(a) AVAILABLE AUTHORITIES.—In addition to other available authorities, the following authorities may be used to provide assistance or other support to carry out the purposes of section 2 of this Act:

(1) Section 108 of the Foreign Assistance Act of 1981 (relating to the Private Sector Revolving Fund).

(2) Section 221 through 223 of that Act (relating to the Housing Guaranty Program).

(3) Title IV of chapter 2 of part I of that Act (relating to the Overseas Private Investment Corporation), without regard to

[2] Sec. 2811(a) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105–277; 112 Stat. 2681–851) added "United States contributions should be used in a manner that effectively increases employment opportunities in communities with rates of unemployment higher than the local or urban average of unemployment in Northern Ireland. In addition, such contributions should be used to benefit individuals residing in such communities.".

[3] Congress did not enact an authorization for fiscal year 2005. Instead, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809), waived the requirements for authorization, and title II of that Act provided the following:

"INTERNATIONAL FUND FOR IRELAND

"For necessary expenses to carry out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961, $18,500,000, which shall be available for the United States contribution to the International Fund for Ireland and shall be made available in accordance with the provisions of the Anglo-Irish Agreement Support Act of 1986 (Public Law 99–415): *Provided,* That such amount shall be expended at the minimum rate necessary to make timely payment for projects and activities: *Provided further,* That funds made available under this heading shall remain available until September 30, 2006.".

the limitation contained in paragraph (2) of the second undesignated paragraph of section 231 of that Act.

(4) Section 661 of that Act (relating to the Trade and Development Agency).[4]

(b) OTHER LAWS.—Assistance under this Act may be provided without regard to any other provision of law.

SEC. 5. CONDITIONS AND UNDERSTANDINGS RELATING TO THE UNITED STATES CONTRIBUTIONS.

(a) PROMOTING ECONOMIC AND SOCIAL RECONSTRUCTION AND DEVELOPMENT.—(1) IN GENERAL.—The United States[5] contributions provided for in this Act—

(A)[6] may be used only to support and promote economic and social reconstruction and development in Ireland and Northern Ireland; and[7]

(B)[7] should be provided to individuals or entities in Northern Ireland which employ practices consistent with the principles of economic justice.

(2)[8] ADDITIONAL REQUIREMENTS.—The restrictions contained in sections 531(e) and 660(a) of the Foreign Assistance Act of 1961 apply with respect to any such contributions.

(b) UNITED STATES REPRESENTATION ON THE BOARD OF THE FUND.—The President shall make every effort, in consultation with the Government of the United Kingdom and the Government of Ireland, to ensure that there is United States representation on the Board of the International Fund.

(c) PRIOR CERTIFICATIONS.—Each fiscal year, the United States may make contributions to the International Fund only if the President certifies to the Congress[9] that he is satisfied that—

(1) the Board of the International Fund, as a whole, is broadly representative of the interests of the communities in Ireland and Northern Ireland; and

(2) disbursements from the International Fund—

(A) will be distributed to individuals and entities whose practices are consistent with principles of economic justice; and[10]

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[4] Sec. 202(e) of Public Law 102–549 (106 Stat. 3658) provided that any reference to the Trade and Development Program shall be deemed to be a reference to the Trade and Development Agency.

[5] Sec. 2811(b)(1)(A) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105–277; 112 Stat. 2681–851), struck out "The United States" and inserted in lieu thereof "(1) IN GENERAL.—The United States".

[6] Sec. 2811(b)(1)(B) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105–277; 112 Stat. 2681–851), struck out "in this Act may be used" and inserted in lieu thereof "in this Act—" followed by subpara. designation "(A)" and "may be used". The original text of the first sentence of subsec. (a) then followed.

[7] Sec. 2811(b)(1)(C) and (D) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105–277; 112 Stat. 2681–851), struck out a period at the end of the first sentence of subsec. (a), inserted in lieu thereof "; and", and added a new subpara. (B).

[8] Sec. 2811(b)(2) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105–277; 112 Stat. 2681–851), struck out "The restrictions" in the second sentence of subsec. (a), and added para. designation "(2) ADDITIONAL REQUIREMENTS.—The restrictions".

[9] Most recently, the President made such a determination on September 22, 1997 (Presidential Determination No. 97–33; 62 F.R. 53217); September 22, 1999 (Presidential Determination No. 99–41; 64 F.R. 53579); April 30, 2001 (Presidential Determination No. 2001–14; 66 F.R. 27825); and September 9, 2003 (Presidential Determination No. 2003–34; 68 F.R. 54967).

[10] Sec. 2811(c)(1) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105–277; 112 Stat. 2681–851), struck out "in accordance

Continued

(B) will address the needs of both communities in Northern Ireland and will create employment opportunities in regions and communities of Northern Ireland suffering from high rates of unemployment.[11]

Each such certification shall include a detailed explanation of the basis for the President's decision.

SEC. 6. ANNUAL REPORTS.

At the end of each fiscal year in which the United States Government makes any contribution to the International Fund, the Presidential shall report to the Congress on the degree to which—

(1) the International Fund has contributed to reconciliation between the communities in Northern Ireland;

(2) the United States contribution to the International Fund is meeting its objectives of encouraging new investment, job creation, and economic reconstruction on the basis of strict equality of opportunity;[12]

(3) the International Fund has increased respect for the human rights and fundamental freedoms of all people in Northern Ireland; and[12]

(4)[12] the extent to which the practices of each individual or entity receiving assistance from United States contributions to the International Fund has been consistent with the principles of economic justice.

SEC. 7. REQUIREMENTS RELATING TO FUNDS FOR "INTERNATIONAL ORGANIZATION AND CONFERENCES".

(a) DISBURSEMENTS, AUDITS, AND REPORTS.—The provisions relating to disbursements on vouchers, audits, and submission of reports with respect to expenditures pursuant to the Joint Resolution of July 11, 1956 (Public Law 689), shall also apply with respect to expenditures pursuant to section 109(c) of the Act of November 22, 1983 (Public Law 98–164).

(b)[13] * * *

(c)[14] PROHIBITION.—Nothing included herein shall require quotas or reverse discrimination or mandate their use.

SEC. 8. DEFINITIONS.

As used in this Act—

(1) the term "Anglo-Irish Agreement" means the Agreement Between the Government of Ireland and the Government of the United Kingdom dated November 15, 1985;[15]

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with the principle of equality of opportunity and nondiscrimination in employment, without regard to religious affiliation; and" and inserted in lieu thereof "to individuals and entities whose practices are consistent with principles of economic justice; and".

[11] Sec. 2811(c)(2) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105–277; 112 Stat. 2681–851), inserted "and will create employment opportunities in regions and communities of Northern Ireland suffering from high rates of unemployment".

[12] Sec. 2811(d) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105–277; 112 Stat. 2681–851), struck out "and" at the end of para. (2), struck out a period at the end of para. (3) and inserted in lieu thereof "; and" and added a new para. (4).

[13] Sec. 7(b) amended sec. 109 of the Act of November 22, 1983 (Public Law 98–164).

[14] Sec. 2811(e) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105–277; 112 Stat. 2681–852), added subsec. (c).

[15] Sec. 2811(f) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105–277; 112 Stat. 2681–852), struck out "and" at the end of para. (1), struck out a period at the end of para. (2) and inserted in lieu thereof "; and", and added a new para. (3).

(2) the term "International Fund" means the international fund for economic development projects in Northern Ireland and Ireland, established pursuant to Article 10 of the Anglo-Irish Agreement; and [15]

(3) [15] the term "principles of economic justice" means the following principles:

(A) Increasing the representation of individuals from underrepresented religious groups in the workforce, including managerial, supervisory, administrative, clerical, and technical jobs.

(B) Providing adequate security for the protection of minority employees at the workplace.

(C) Banning provocative sectarian or political emblems from the workplace.

(D) Providing that all job openings be advertised publicly and providing that special recruitment efforts be made to attract applicants from underrepresented religious groups.

(E) Providing that layoff, recall, and termination procedures do not favor a particular religious group.

(F) Abolishing job reservations, apprenticeship restrictions, and differential employment criteria which discriminate on the basis of religion.

(G) Providing for the development of training programs that will prepare substantial numbers of minority employees for skilled jobs, including the expansion of existing programs and the creation of new programs to train, upgrade, and improve the skills of minority employees.

(H) Establishing procedures to assess, identify, and actively recruit minority employees with the potential for further advancement.

(I) Providing for the appointment of a senior management staff member to be responsible for the employment efforts of the entity and, within a reasonable period of time, the implementation of the principles described in subparagraphs (A) through (H).

h. International Narcotics Control [1]

(1) Western Hemisphere Drug Elimination Act

Title VIII of Public Law 105–277 [Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; H.R. 4328], 112 Stat. 2681, approved October 21, 1998; amended by Public Law 106–35 [Western Hemisphere Drug Elimination Technical Corrections Act; H.R. 1379], 113 Stat. 126, approved June 15, 1999

TITLE VIII—WESTERN HEMISPHERE DRUG ELIMINATION

SEC. 801. SHORT TITLE; TABLE OF CONTENTS.

(a)[2] SHORT TITLE.—This title may be cited as the "Western Hemisphere Drug Elimination Act".

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

	Page
Sec. 801. Short title; table of contents	360
Sec. 802. Findings and statement of policy	361
SUBTITLE A—ENHANCED SOURCE AND TRANSIT COUNTRY COVERAGE	
Sec. 811. Expansion of radar coverage and operation in source and transit countries	363
Sec. 812. Expansion of Coast Guard drug interdiction	364
Sec. 813. Expansion of aircraft coverage and operation in source and transit countries	365
SUBTITLE B—ENHANCED ERADICATION AND INTERDICTION STRATEGY IN SOURCE COUNTRIES	
Sec. 821. Additional eradication resources for Colombia	366
Sec. 822. Additional eradication resources for Peru	367
Sec. 823. Additional eradication resources for Bolivia	367
Sec. 824. Miscellaneous additional eradication resources	368
Sec. 825. Bureau of International Narcotics and Law Enforcement Affairs	368
Sec. 826. Further miscellaneous additional resources[3]	368
SUBTITLE C—ENHANCED ALTERNATIVE CROP DEVELOPMENT SUPPORT IN SOURCE ZONE	
Sec. 831. Alternative crop development support	368
Sec. 832. Authorization of appropriations for Agricultural Research Service counterdrug research and development activities	368
Sec. 833. Master plan for herbicides to control narcotic crops	369
Sec. 834. Authorization of use of environmentally-approved herbicides to eliminate illicit narcotics crops	370
SUBTITLE D—ENHANCED INTERNATIONAL LAW ENFORCEMENT TRAINING	
Sec. 841. Enhanced international law enforcement academy training	370
Sec. 842. Enhanced United States drug enforcement international training	370
Sec. 843. Provision of nonlethal equipment to foreign law enforcement organizations for cooperative illicit narcotics control activities	372

[1] See also Public Law 106–246, establishing Plan Colombia, page 203.
[2] 21 U.S.C. 801 note.
[3] Added by sec. 2(b) of Public Law 106–35 (113 Stat. 126).

SUBTITLE E—ENHANCED DRUG TRANSIT AND SOURCE ZONE LAW ENFORCEMENT OPERATIONS AND EQUIPMENT

Sec. 851. Increased funding for operations and equipment; report 372
Sec. 852. Funding for computer software and hardware to facilitate direct communication between drug enforcement agencies 373
Sec. 853. Sense of Congress regarding priority of drug interdiction and counterdrug activities 374

SUBTITLE F—RELATIONSHIP TO OTHER LAWS

Sec. 861. Authorizations of appropriations 374

SUBTITLE G—TRAFFICKING IN CONTROLLED SUBSTANCES

Sec. 871. Short title 374
Sec. 872. Limitation 374

SEC. 802. FINDINGS AND STATEMENT OF POLICY.

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

(1) Teenage drug use in the United States has doubled since 1993.

(2) The drug crisis facing the United States is a top national security threat.

(3) The spread of illicit drugs through United States borders cannot be halted without an effective drug interdiction strategy.

(4) Effective drug interdiction efforts have been shown to limit the availability of illicit narcotics, drive up the street price, support demand reduction efforts, and decrease overall drug trafficking and use.

(5) A prerequisite for reducing youth drug use is increasing the price of drugs. To increase price substantially, at least 60 percent of drugs must be interdicted.

(6) In 1987, the national drug control budget maintained a significant balance between demand and supply reduction efforts, illustrated as follows:

(A) 29 percent of the total drug control budget expenditures for demand reduction programs.

(B) 38 percent of the total drug control budget expenditures for domestic law enforcement.

(C) 33 percent of the total drug control budget expenditures for international drug interdiction efforts.

(7) In the late 1980's and early 1990's, counternarcotic efforts were successful, specifically in protecting the borders of the United States from penetration by illegal narcotics through increased seizures by the United States Coast Guard and other agencies, including a 302 percent increase in pounds of cocaine seized between 1987 and 1991.

(8) Limiting the availability of narcotics to drug traffickers in the United States had a promising effect as illustrated by the decline of illicit drug use between 1988 and 1991, through a—

(A) 13 percent reduction in total drug use;

(B) 35 percent drop in cocaine use; and

(C) 16 percent decrease in marijuana use.

(9) In 1993, drug interdiction efforts in the transit zones were reduced due to an imbalance in the national drug control strategy. This trend has continued through 1995 as shown by the following figures:

(A) 35 percent for demand reduction programs.

(B) 53 percent for domestic law enforcement.

(C) 12 percent for international drug interdiction efforts.

(10) Supply reduction efforts became a lower priority for the Administration and the seizures by the United States Coast Guard and other agencies decreased as shown by a 68 percent decrease in the pounds of cocaine seized between 1991 and 1996.

(11) Reductions in funding for comprehensive interdiction operations like OPERATION GATEWAY and OPERATION STEELWEB, initiatives that encompassed all areas of interdiction and attempted to disrupt the operating methods of drug smugglers along the entire United States border, have created unprotected United States border areas which smugglers exploit to move their product into the United States.

(12) The result of this new imbalance in the national drug control strategy caused the drug situation in the United States to become a crisis with serious consequences including—

(A) doubling of drug-abuse-related arrests for minors between 1992 and 1996;

(B) 70 percent increase in overall drug use among children aged 12 to 17;

(C) 80 percent increase in drug use for graduating seniors since 1992;

(D) a sharp drop in the price of 1 pure gram of heroin from $1,647 in 1992 to $966 in February 1996; and

(E) a reduction in the street price of 1 gram of cocaine from $123 to $104 between 1993 and 1994.

(13) The percentage change in drug use since 1992, among graduating high school students who used drugs in the past 12 months, has substantially increased—marijuana use is up 80 percent, cocaine use is up 80 percent, and heroin use is up 100 percent.

(14) The Department of Defense has been called upon to support counter-drug efforts of Federal law enforcement agencies that are carried out in source countries and through transit zone interdiction, but in recent years Department of Defense assets critical to those counter-drug activities have been consistently diverted to missions that the Secretary of Defense and the Chairman of the Joint Chiefs of Staff consider a higher priority.

(15) The Secretary of Defense and the Chairman of the Joint Chiefs of Staff, through the Department of Defense policy referred to as the Global Military Force Policy, has established the priorities for the allocation of military assets in the following order: (1) war; (2) military operations other than war that might involve contact with hostile forces (such as peacekeeping operations and noncombatant evacuations); (3) exercises and training; and (4) operational tasking other than those involving hostilities (including counter-drug activities and humanitarian assistance).

(16) Use of Department of Defense assets is critical to the success of efforts to stem the flow of illegal drugs from source countries and through transit zones to the United States.

(17) The placement of counter-drug activities in the fourth and last priority of the Global Military Force Policy list of priorities for the allocation of military assets has resulted in a serious deficiency in assets vital to the success of source country and transit zone efforts to stop the flow of illegal drugs into the United States.

(18) At present the United States faces few, if any, threats from abroad greater than the threat posed to the Nation's youth by illegal and dangerous drugs.

(19) The conduct of counter-drug activities has the potential for contact with hostile forces.

(20) The Department of Defense counter-drug activities mission should be near the top, not among the last, of the priorities for the allocation of Department of Defense assets after the first priority for those assets for the war-fighting mission of the Department of Defense.

(b) STATEMENT OF POLICY.—It is the policy of the United States to—

(1) reduce the supply of drugs and drug use through an enhanced drug interdiction effort in the major drug transit countries, as well support a comprehensive supply country eradication and crop substitution program, because a commitment of increased resources in international drug interdiction efforts will create a balanced national drug control strategy among demand reduction, law enforcement, and international drug interdiction efforts; and

(2) develop and establish comprehensive drug interdiction and drug eradication strategies, and dedicate the required resources, to achieve the goal of reducing the flow of illegal drugs into the United States by 80 percent by as early as January 1, 2003.

Subtitle A—Enhanced Source and Transit Country Coverage

SEC. 811. EXPANSION OF RADAR COVERAGE AND OPERATION IN SOURCE AND TRANSIT COUNTRIES.

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are authorized to be appropriated for the Department of the Treasury for fiscal years 1999, 2000, and 2001 for the enhancement of radar coverage in drug source and transit countries in the total amount of $14,300,000 which shall be available for the following purposes:

(1) For restoration of radar, and operation and maintenance of radar, in the Bahamas.

(2) For operation and maintenance of ground-based radar at Guantanamo Bay Naval Base, Cuba.

(b) REPORT.—Not later than January 31, 1999, the Secretary of Defense, in conjunction with the Director of Central Intelligence, shall submit to the Committee on National Security, the Committee on International Relations, and the Permanent Select Committee on Intelligence of the House of Representatives and the Committee on Armed Services, the Committee on Foreign Relations, and the Select Committee on Intelligence of the Senate a report examining the options available to the United States for improving Relocatable Over the Horizon (ROTHR) capability to provide enhanced radar coverage of narcotics source zone countries in

South America and transit zones in the Eastern Pacific. The report shall include—

(1) a discussion of the need and costs associated with the establishment of a proposed fourth ROTHR site located in the source or transit zones; and

(2) an assessment of the intelligence specific issues raised if such a ROTHR facility were to be established in conjunction with a foreign government.

SEC. 812. EXPANSION OF COAST GUARD DRUG INTERDICTION.

(a) OPERATING EXPENSES.—For operating expenses of the Coast Guard associated with expansion of drug interdiction activities around Puerto Rico, the United States Virgin Islands, and other transit zone areas of operation, there is authorized to be appropriated to the Secretary of Transportation $151,500,000 for each of fiscal years 1999, 2000, and 2001. Such amounts shall include (but are not limited to) amounts for the following:

(1) For deployment of intelligent acoustic detection buoys in the Florida Straits and Bahamas.

(2) For a nonlethal technology program to enhance countermeasures against the threat of transportation of drugs by so-called Go-Fast boats.

(b) ACQUISITION, CONSTRUCTION, AND IMPROVEMENT.—

(1) IN GENERAL.—For acquisition, construction, and improvement of facilities and equipment to be used for expansion of Coast Guard drug interdiction activities, there is authorized to be appropriated to the Secretary of Transportation for fiscal year 1999 the total amount of $630,300,000 which shall be available for the following purposes:

(A) For maritime patrol aircraft sensors.

(B) For acquisition of deployable pursuit boats.

(C) For the acquisition and construction of up to 15 United States Coast Guard Coastal Patrol Boats.

(D) For—

(i) the reactivation of up to 3 United States Coast Guard HU–25 Falcon jets;

(ii) the procurement of up to 3 C–37A aircraft; or

(iii) the procurement of up to 3 C–20H aircraft.

(E) For acquisition of installed or deployable electronic sensors and communications systems for Coast Guard Cutters.

(F) For acquisition and construction of facilities and equipment to support regional and international law enforcement training and support in Puerto Rico, the United States Virgin Islands, and the Caribbean Basin.

(G) For acquisition or conversion of maritime patrol aircraft.

(H) For acquisition or conversion of up to 2 vessels to be used as Coast Guard Medium or High Endurance Cutters.

(I) For acquisition or conversion of up to 2 vessels to be used as Coast Guard Cutters as support, command, and control platforms for drug interdiction operations.

(J) For acquisition of up to 6 Coast Guard Medium Endurance Cutters.

(2) CONTINUED AVAILABILITY.—Amounts appropriated under this subsection may remain available until expended.

(c) REQUIREMENT TO ACCEPT PATROL CRAFT FROM DEPARTMENT OF DEFENSE.—The Secretary of Transportation shall accept, for use by the Coast Guard for expanded drug interdiction activities, 7 PC–170 patrol craft if offered by the Department of Defense.

SEC. 813. EXPANSION OF AIRCRAFT COVERAGE AND OPERATION IN SOURCE AND TRANSIT COUNTRIES.

(a) DEPARTMENT OF THE TREASURY.—Funds are authorized to be appropriated for the Department of the Treasury for fiscal years 1999, 2000, and 2001 for the enhancement of air coverage and operation for drug source and transit countries in the total amount of $886,500,000 which shall be available for the following purposes:

(1) For procurement of 10 P–3B Early Warning aircraft for the United States Customs Service to enhance overhead air coverage of drug source zone countries.

(2) For the procurement and deployment of 10 P–3B Slick airplanes for the United States Customs Service to enhance overhead air coverage of the drug source zone.

(3) In fiscal years 2000 and 2001, for operation and maintenance of 10 P–3B Early Warning aircraft for the United States Customs Service to enhance overhead air coverage of drug source zone countries.

(4) For personnel for the 10 P–3B Early Warning aircraft for the United States Customs Service to enhance overhead air coverage of drug source zone countries.

(5) In fiscal years 2000 and 2001, for operation and maintenance of 10 P–3B Slick airplanes for the United States Customs Service to enhance overhead coverage of the drug source zone.

(6) For personnel for the 10 P–3B Slick airplanes for the United States Customs Service to enhance overhead air coverage of drug source zone countries.

(7) For construction and furnishing of an additional facility for the P–3B aircraft.

(8) For operation and maintenance for overhead air coverage for source countries.

(9) For operation and maintenance for overhead coverage for the Caribbean and Eastern Pacific regions.

(10) For purchase and for operation and maintenance of 3 RU–38A observation aircraft (to be piloted by pilots under contract with the United States).

(b) REPORT.—Not later than January 31, 1999, the Secretary of Defense, in consultation with the Secretary of State and the Director of Central Intelligence, shall submit to the Committee on National Security, the Committee on International Relations, and the Permanent Select Committee on Intelligence of the House of Representatives and to the Committee on Armed Services, the Committee on Foreign Relations, and the Select Committee on Intelligence of the Senate a report examining the options available in the source and transit zones to replace Howard Air Force Base in Panama and specifying the requirements of the United States to

establish an airbase or airbases for use in support of counternarcotics operations to optimize operational effectiveness in the source and transit zones. The report shall identify the following:

(1) The specific requirements necessary to support the national drug control policy of the United States.

(2) The estimated construction, operation, and maintenance costs for a replacement counterdrug airbase or airbases in the source and transit zones.

(3) Possible interagency cost sharing arrangements for a replacement airbase or airbases.

(4) Any legal or treaty-related issues regarding the replacement airbase or airbases.

(5) A summary of completed alternative site surveys for the airbase or airbases.

(c) TRANSFER OF AIRCRAFT.—The Secretary of the Navy shall transfer to the United States Customs Service—

(1) ten currently retired and previously identified heavyweight P–3B aircraft for modification into P–3 AEW&C aircraft; and

(2) ten currently retired and previously identified heavyweight P–3B aircraft for modification into P–3 Slick aircraft.

Subtitle B—Enhanced Eradication and Interdiction Strategy in Source Countries

SEC. 821. ADDITIONAL ERADICATION RESOURCES FOR COLOMBIA.

(a) DEPARTMENT OF STATE.—Funds are authorized to be appropriated for the Department of State for fiscal years 1999, 2000, and 2001 for the enhancement of drug-related eradication efforts in Colombia in the total amount of $201,250,000 which shall be available for the following purposes:

(1) For each such fiscal year for sustaining support of the helicopters and fixed wing fleet of the national police of Colombia.

(2) For the purchase of DC–3 transport aircraft for the national police of Colombia.

(3) For acquisition of resources needed for prison security in Colombia.

(4) For the purchase of minigun systems for the national police of Colombia.

(5) For the purchase of 6 UH–60L Black Hawk utility helicopters for the national police of Colombia and for operation, maintenance, and training relating to such helicopters.

(6) For procurement, for upgrade of 50 UH–1H helicopters to the Huey II configuration equipped with miniguns for the use of the national police of Colombia.

(7) For the repair and rebuilding of the antinarcotics base in southern Colombia.

(8) For providing sufficient and adequate base and force security for any rebuilt facility in southern Colombia, and the other forward operating antinarcotics bases of the Colombian National Police antinarcotics unit.

(b)[4] COUNTERNARCOTICS ASSISTANCE.—

(1) LIMITATION ON PROVISION OF ASSISTANCE.—Except as provided in paragraph (2), United States counternarcotics assistance may not be provided for the Government of Colombia under this title or under any other provision of law on or after the date of enactment of this Act if the Government of Colombia negotiates or permits the establishment of any demilitarized zone in which the eradication of drug production by the security forces of Colombia, including the Colombian National Police antinarcotics unit, is prohibited.

(2) EXCEPTION.—If the Government of Colombia negotiates or permits the establishment of a demilitarized zone described in paragraph (1), United States counternarcotics assistance may be provided for the Government of Colombia for a period of up to 90 consecutive days upon a finding by the President that providing such assistance is in the national interest of the United States.

(3) NOTIFICATION.—In each case in which counternarcotics assistance is provided for the Government of Colombia as a result of a finding by the President described in paragraph (2), the President shall notify the Committees on Appropriations and the authorizing committees of jurisdiction of the House of Representatives and the Senate not later than 5 days after such assistance is provided.

SEC. 822. ADDITIONAL ERADICATION RESOURCES FOR PERU.

(a) DEPARTMENT OF STATE.—Funds are authorized to be appropriated for the Department of State for fiscal years 1999, 2000, and 2001 for the establishment of a third drug interdiction site in Peru to support air bridge and riverine missions for enhancement of drug-related eradication efforts in Peru, in the total amount of $3,000,000, and an additional amount of $1,000,000 for each of fiscal years 2000 and 2001 for operation and maintenance.

(b) DEPARTMENT OF DEFENSE STUDY.—The Secretary of Defense shall conduct a study of Peruvian counternarcotics air interdiction requirements and, not later than 90 days after the date of enactment of this Act, submit to Congress a report on the results of the study. The study shall include a review of the Peruvian Air Force's current and future requirements for counternarcotics air interdiction to complement the Peruvian Air Force's A–37 capability.

SEC. 823. ADDITIONAL ERADICATION RESOURCES FOR BOLIVIA.

Funds are authorized to be appropriated for the Department of State for fiscal years 1999, 2000, and 2001 for enhancement of drug-related eradication efforts in Bolivia in the total amount of $17,000,000 which shall be available for the following purposes:

(1) For support of air operations in Bolivia.

(2) For support of riverine operations in Bolivia.

(3) For support of coca eradication programs.

(4) For procurement of 2 mobile x-ray machines, with operation and maintenance support.

[4] 22 U.S.C. 2291 note.

SEC. 824. MISCELLANEOUS ADDITIONAL ERADICATION RESOURCES.

Funds are authorized to be appropriated for the Department of State for fiscal years 1999, 2000, and 2001 for enhanced precursor chemical control projects, in the total amount of $500,000.

SEC. 825. BUREAU OF INTERNATIONAL NARCOTICS AND LAW ENFORCEMENT AFFAIRS.

(a) SENSE OF CONGRESS RELATING TO PROFESSIONAL QUALIFICATIONS OF OFFICIALS RESPONSIBLE FOR INTERNATIONAL NARCOTICS CONTROL.—It is the sense of Congress that any individual serving in the position of assistant secretary in any department or agency of the Federal Government who has primary responsibility for international narcotics control and law enforcement, and the principal deputy of any such assistant secretary, shall have substantial professional qualifications in the fields of—

(1) management;

(2) Federal law enforcement or intelligence; and

(3) foreign policy.

(b) SENSE OF CONGRESS RELATING TO DEFICIENCIES IN INTERNATIONAL NARCOTICS ASSISTANCE ACTIVITIES.—It is the sense of Congress that the responsiveness and effectiveness of international narcotics assistance activities under the Department of State have been severely hampered due, in part, to the lack of law enforcement expertise by responsible personnel in the Department of State.

SEC. 826.[5] FURTHER MISCELLANEOUS ADDITIONAL RESOURCES.

(a) IN GENERAL.—There are authorized to be appropriated for the Department of State for fiscal year 1999 such sums as may be necessary to carry out section 481 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291).

(b) RULE OF CONSTRUCTION.—Amounts appropriated pursuant to the authorization of appropriations in subsection (a) are in addition to amounts made available to carry out section 481 of such Act under any other provision of law.

Subtitle C—Enhanced Alternative Crop Development Support in Source Zone

SEC. 831. ALTERNATIVE CROP DEVELOPMENT SUPPORT.

Funds are authorized to be appropriated for the United States Agency for International Development for fiscal years 1999, 2000, and 2001 for alternative development programs in the total amount of $180,000,000 which shall be available as follows:

(1) In the Guaviare, Putumayo, and Caqueta regions in Colombia.

(2) In the Ucayali, Apurimac, and Huallaga Valley regions in Peru.

(3) In the Chapare and Yungas regions in Bolivia.

SEC. 832. AUTHORIZATION OF APPROPRIATIONS FOR AGRICULTURAL RESEARCH SERVICE COUNTERDRUG RESEARCH AND DEVELOPMENT ACTIVITIES.

(a) IN GENERAL.—There is authorized to be appropriated to the Secretary of Agriculture for each of fiscal years 1999, 2000, and

[5] Added by sec. 2(a) of Public Law 106–35 (113 Stat. 126).

2001, $23,000,000 to support the counternarcotics research efforts of the Agricultural Research Service of the Department of Agriculture. Of that amount, funds are authorized as follows:

(1) $5,000,000 shall be used for crop eradication technologies.

(2) $2,000,000 shall be used for narcotics plant identification, chemistry, and biotechnology.

(3) $1,000,000 shall be used for worldwide crop identification, detection tagging, and production estimation technology.

(4) $5,000,000 shall be used for improving the disease resistance, yield, and economic competitiveness of commercial crops that can be promoted as alternatives to the production of narcotics plants.

(5) $10,000,000 to contract with entities meeting the criteria described in subsection (b) for the product development, environmental testing, registration, production, aerial distribution system development, product effectiveness monitoring, and modification of multiple herbicides to control narcotic crops (including coca, poppy, and cannabis) in the United States and internationally.

(b) CRITERIA FOR ELIGIBLE ENTITIES.—An entity under this subsection is an entity which possesses—

(1) experience in diseases of narcotic crops;

(2) intellectual property involving seed-borne dispersal formulations;

(3) the availability of state-of-the-art containment or quarantine facilities;

(4) country-specific herbicide formulations;

(5) specialized fungicide resistant formulations; or

(6) special security arrangements.

SEC. 833. MASTER PLAN FOR HERBICIDES TO CONTROL NARCOTIC CROPS.

(a) IN GENERAL.—The Director of the Office of National Drug Control Policy shall develop a 10-year master plan for the use of herbicides to control narcotic crops (including coca, poppy, and cannabis) in the United States and internationally.

(b) COORDINATION.—The Director shall develop the plan in coordination with—

(1) the Department of Agriculture;

(2) the Drug Enforcement Administration of the Department of Justice;

(3) the Department of Defense;

(4) the Environmental Protection Agency;

(5) the Bureau for International Narcotics and Law Enforcement Activities of the Department of State;

(6) the United States Information Agency; and

(7) other appropriate agencies.

(c) REPORT.—Not later than March 1, 1999, the Director of the Office of National Drug Control Policy shall submit to Congress a report describing the activities undertaken to carry out this section.

SEC. 834.[6] AUTHORIZATION OF USE OF ENVIRONMENTALLY-APPROVED HERBICIDES TO ELIMINATE ILLICIT NARCOTICS CROPS.

The Secretary of State, the Attorney General, the Secretary of Agriculture, the Secretary of Defense, the Director of the Office of National Drug Control Policy, and the Administrator of the Environmental Protection Agency are authorized to support the development and use of environmentally-approved herbicides to eliminate illicit narcotics crops, including coca, cannabis, and opium poppy, both in the United States and in foreign countries.

Subtitle D—Enhanced International Law Enforcement Training

SEC. 841. ENHANCED INTERNATIONAL LAW ENFORCEMENT ACADEMY TRAINING.

(a) MARITIME LAW ENFORCEMENT TRAINING CENTER.—Funds are authorized to be appropriated for the Department of Transportation and the Department of the Treasury for fiscal years 1999, 2000, and 2001 for the joint establishment, operation, and maintenance in San Juan, Puerto Rico, of a center for training law enforcement personnel of countries located in the Latin American and Caribbean regions in matters relating to maritime law enforcement, including customs-related ports management matters, as follows:

(1) For each such fiscal year for funding by the Department of Transportation, $1,500,000.

(2) For each such fiscal year for funding by the Department of the Treasury, $1,500,000.

(b) UNITED STATES COAST GUARD INTERNATIONAL MARITIME TRAINING VESSEL.—Funds are authorized to be appropriated for the Department of Transportation for fiscal years 1999, 2000, and 2001 for the establishment, operation, and maintenance of maritime training vessels in the total amount of $15,000,000 which shall be available for the following purposes:

(1) For a vessel for international maritime training, which shall visit participating Latin American and Caribbean nations on a rotating schedule in order to provide law enforcement training and to perform maintenance on participating national assets.

(2) For support of the United States Coast Guard Balsam Class Buoy Tender training vessel.

SEC. 842. ENHANCED UNITED STATES DRUG ENFORCEMENT INTERNATIONAL TRAINING.

(a) MEXICO.—Funds are authorized to be appropriated for the Department of Justice for fiscal years 1999, 2000, and 2001 for substantial exchanges for Mexican judges, prosecutors, and police, in the total amount of $2,000,000 for each such fiscal year. The Attorney General shall consult with the Secretary of State regarding such exchanges.

(b) BRAZIL.—Funds are authorized to be appropriated for the Department of Justice for fiscal years 1999, 2000, and 2001 for enhanced support for the Brazilian Federal Police Training Center, in

[6] 21 U.S.C. 1713.

the total amount of $1,000,000 for each such fiscal year. The Attorney General shall consult with the Secretary of State regarding such enhanced support.

(c) PANAMA.—

(1) IN GENERAL.—Funds are authorized to be appropriated for the Department of Transportation for fiscal years 1999, 2000, and 2001 for operation and maintenance, for locating and operating Coast Guard assets so as to strengthen the capability of the Coast Guard of Panama to patrol the Atlantic and Pacific coasts of Panama for drug enforcement and interdiction activities, in the total amount of $1,000,000 for each such fiscal year. The Secretary of Transportation shall consult with the Secretary of State regarding the location and operation of such assets for such purposes.

(2) ELIGIBILITY TO RECEIVE TRAINING.—Notwithstanding any other provision of law, members of the national police of Panama shall be eligible to receive training through the International Military Education Training program.

(d) VENEZUELA.—There are authorized to be appropriated for the Department of Justice for each of fiscal years 1999, 2000, and 2001, $1,000,000 for operation and maintenance, for support for the Venezuelan Judicial Technical Police Counterdrug Intelligence Center. The Attorney General shall consult with the Secretary of State regarding such support.

(e) ECUADOR.—

(1) IN GENERAL.—Funds are authorized to be appropriated for the Department of Transportation and the Department of the Treasury for each of fiscal years 1999, 2000, and 2001 for the buildup of local coast guard and port control in Guayaquil and Esmeraldas, Ecuador, as follows:

(A) For each such fiscal year for the Department of Transportation, $500,000.

(B) For each such fiscal year for the Department of the Treasury, $500,000.

(2) CONSULTATION.—The Secretary of Transportation and the Secretary of the Treasury shall consult with the Secretary of State regarding the buildup described in paragraph (1).

(f) HAITI AND THE DOMINICAN REPUBLIC.—Funds are authorized to be appropriated for the Department of the Treasury for each of fiscal years 1999, 2000, and 2001, $500,000 for the buildup of local coast guard and port control in Haiti and the Dominican Republic. The Secretary of the Treasury shall consult with the Secretary of State regarding such buildup of local coast guard and port patrol.

(g) CENTRAL AMERICA.—There are authorized to be appropriated for the Department of the Treasury for each of fiscal years 1999, 2000, and 2001, $12,000,000 for the buildup of local coast guard and port control in Belize, Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua. The Secretary of the Treasury shall consult with the Secretary of State regarding such buildup of local coast guard and port patrol.

SEC. 843.[7] PROVISION OF NONLETHAL EQUIPMENT TO FOREIGN LAW ENFORCEMENT ORGANIZATIONS FOR COOPERATIVE ILLICIT NARCOTICS CONTROL ACTIVITIES.

(a) IN GENERAL.—(1) Subject to paragraph (2), the Administrator of the Drug Enforcement Administration, in consultation with the Secretary of State, may transfer or lease each year nonlethal equipment to foreign law enforcement organizations for the purpose of establishing and carrying out cooperative illicit narcotics control activities.

(2)(A) The Administrator may transfer or lease equipment under paragraph (1) only if the equipment is not designated as a munitions item or controlled on the United States Munitions List pursuant to section 38 of the Arms Export Control Act.

(B) The value of each piece of equipment transferred or leased under paragraph (1) may not exceed $100,000.

(b) ADDITIONAL REQUIREMENT.—The Administrator shall provide for the maintenance and repair of any equipment transferred or leased under subsection (a).

(c) NOTIFICATION REQUIREMENT.—Before the export of any item authorized for transfer under subsection (a), the Administrator shall provide written notice to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives in accordance with the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1).

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

(1) all United States law enforcement personnel serving in Mexico should be accredited the same status under the Vienna Convention on Diplomatic Immunity as other diplomatic personnel serving at United States posts in Mexico; and

(2) all Mexican narcotics law enforcement personnel serving in the United States should be accorded the same diplomatic status as Drug Enforcement Administration personnel serving in Mexico.

Subtitle E—Enhanced Drug Transit and Source Zone Law Enforcement Operations and Equipment

SEC. 851. INCREASED FUNDING FOR OPERATIONS AND EQUIPMENT; REPORT.

(a) DRUG ENFORCEMENT ADMINISTRATION.—Funds are authorized to be appropriated for the Drug Enforcement Administration for fiscal years 1999, 2000, and 2001 for enhancement of counternarcotic operations in drug transit and source countries in the total amount of $58,900,000 which shall be available for the following purposes:

(1) For support of the Merlin program.

(2) For support of the intercept program.

(3) For support of the development and implementation of automation systems to support investigative and intelligence requirements.

(4) For support of the Caribbean Initiative.

[7] 22 U.S.C. 2291–5.

(5) For the hire of special agents, administrative and investigative support personnel, and intelligence analysts for the support of overseas investigations.

(b) DEPARTMENT OF STATE.—Funds are authorized to be appropriated for the Department of State for fiscal year 1999, 2000, and 2001 for the deployment of commercial unclassified intelligence and imaging data and a Passive Coherent Location System for counternarcotics and interdiction purposes in the Western Hemisphere, the total amount of $20,000,000.

(c) DEPARTMENT OF THE TREASURY.—Funds are authorized to be appropriated for the United States Customs Service for fiscal years 1999, 2000, and 2001 for enhancement of counternarcotic operations in drug transit and source countries in the total amount of $71,500,000 which shall be available for the following purposes:

(1) For refurbishment of up to 30 interceptor and Blue Water Platform vessels in the Caribbean maritime fleet.

(2) For purchase of up to 9 new interceptor vessels in the Caribbean maritime fleet.

(3) For the hire and training of up to 25 special agents for maritime operations in the Caribbean.

(4) For purchase of up to 60 automotive vehicles for ground use in South Florida.

(5) For each such fiscal year for operation and maintenance support for up to 10 United States Customs Service Citations Aircraft to be dedicated for the source and transit zone.

(6) For purchase of non-intrusive inspection systems consistent with the United States Customs Service 5-year technology plan, including truck x-rays and gamma-imaging for drug interdiction purposes at high-threat seaports and land border ports of entry.

(d) DEPARTMENT OF DEFENSE REPORT.—Not later than January 31, 1999, the Secretary of Defense, in consultation with the Director of the Office of National Drug Control Policy, shall submit to Congress a report examining and proposing recommendations regarding any organizational changes to optimize counterdrug activities, including alternative cost-sharing arrangements regarding the following facilities:

(1) The Joint Inter-Agency Task Force, East, Key West, Florida.

(2) The Joint Inter-Agency Task Force, West, Alameda, California.

(3) The Joint Inter-Agency Task Force, South, Panama City, Panama.

(4) The Joint Task Force 6, El Paso, Texas.

SEC. 852. FUNDING FOR COMPUTER SOFTWARE AND HARDWARE TO FACILITATE DIRECT COMMUNICATION BETWEEN DRUG ENFORCEMENT AGENCIES.

(a) AUTHORIZATION.—Funds are authorized to be appropriated for the development and purchase of computer software and hardware to facilitate direct communication between agencies that perform work relating to the interdiction of drugs at United States borders, including the United States Customs Service, the Border Patrol,

the Federal Bureau of Investigation, the Drug Enforcement Agency, and the Immigration and Naturalization Service, in the total amount of $50,000,000.

(b) AVAILABILITY.—Funds authorized pursuant to the authorization of appropriations in subsection (a) shall remain available until expended.

SEC. 853. SENSE OF CONGRESS REGARDING PRIORITY OF DRUG INTERDICTION AND COUNTERDRUG ACTIVITIES.

It is the sense of Congress that the Secretary of Defense should revise the Global Military Force Policy of the Department of Defense in order—

(1) to treat the international drug interdiction and counter-drug activities of the Department as a military operation other than war, thereby elevating the priority given such activities under the Policy to the next priority below the priority given to war under the Policy and to the same priority as is given to peacekeeping operations under the Policy; and

(2) to allocate the assets of the Department to drug interdiction and counter-drug activities in accordance with the priority given those activities.

Subtitle F—Relationship to Other Laws

SEC. 861. AUTHORIZATIONS OF APPROPRIATIONS.

The funds authorized to be appropriated for any department or agency of the Federal Government for fiscal years 1999, 2000, or 2001 by this title are in addition to funds authorized to be appropriated for that department or agency for fiscal year 1999, 2000, or 2001 by any other provision of law.

Subtitle G—Trafficking in Controlled Substances

SEC. 871.[8] SHORT TITLE.

This subtitle may be cited as the "Controlled Substances Trafficking Prohibition Act".

SEC. 872. LIMITATION.

(a) AMENDMENT.—Section 1006(a) of the Controlled Substances Import and Export Act (21 U.S.C. 956(a)) is amended—

(1) by striking "The Attorney General" and inserting "(1) Subject to paragraph (2), the Attorney General"; and

(2) by adding at the end the following:

"(2) Notwithstanding any exemption under paragraph (1), a United States resident who enters the United States through an international land border with a controlled substance (except a substance in schedule I) for which the individual does not possess a valid prescription issued by a practitioner (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) in accordance with applicable Federal and State law (or documentation that verifies the issuance of such a prescription to that individual) may not import the controlled substance into the United States in an amount that exceeds 50 dosage units of the controlled substance.".

[8] 21 U.S.C. 801 note.

(b)[9] FEDERAL MINIMUM REQUIREMENT.—Section 1006(a)(2) of the Controlled Substances Import and Export Act, as added by subsection (a), is a minimum Federal requirement and shall not be construed to limit a State from imposing any additional requirement.

(c)[9] EXTENT.—The amendment made by subsection (a) shall not be construed to affect the jurisdiction of the Secretary of Health and Human Services under the Federal Food, Drug and Cosmetic Act (21 U.S.C. 301 et seq.).

[9] 21 U.S.C. 956 note.

(2) President's Council on Counter-Narcotics

Partial text of Public Law 105–277 [Office of National Drug Control Policy Reauthorizaiton Act of 1998; title VII of Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; H.R. 5246], 112 Stat. 2681–670, approved October 21, 1998

TITLE VII—OFFICE OF NATIONAL DRUG CONTROL POLICY REAUTHORIZATION

SEC. 701.[1] SHORT TITLE.

This title may be cited as the "Office of National Drug Control Policy Reauthorization Act of 1998".

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SEC. 709.[2] PRESIDENT'S COUNCIL ON COUNTER-NARCOTICS.

(a) ESTABLISHMENT.—There is established a council to be known as the President's Council on Counter-Narcotics (referred to in this section as the "Council").

(b) MEMBERSHIP.—

(1) IN GENERAL.—Subject to paragraph (2), the Council shall be composed of 18 members, of whom—

(A) 1 shall be the President, who shall serve as Chairman of the Council;

(B) 1 shall be the Vice President;

(C) 1 shall be the Secretary of State;

(D) 1 shall be the Secretary of the Treasury;

(E) 1 shall be the Secretary of Defense;

(F) 1 shall be the Attorney General;

(G) 1 shall be the Secretary of Transportation;

(H) 1 shall be the Secretary of Health and Human Services;

(I) 1 shall be the Secretary of Education;

(J) 1 shall be the Representative of the United States of America to the United Nations;

(K) 1 shall be the Director of the Office of Management and Budget;

(L) 1 shall be the Chief of Staff to the President;

(M) 1 shall be the Director of the Office, who shall serve as the Executive Director of the Council;

(N) 1 shall be the Director of Central Intelligence;

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[1] 21 U.S.C. 1701 note. Sec. 715 of title VII (21 U.S.C. 1712) provided the following:

"SEC. 715. TERMINATION OF OFFICE OF NATIONAL DRUG CONTROL POLICY.

"(a) IN GENERAL.—Except as provided in subsection (b), effective on September 30, 2003, this title and the amendments made by this title are repealed.

"(b) EXCEPTION.—Subsection (a) does not apply to section 713 or the amendments made by that section.".

[2] 21 U.S.C. 1708.

(O) 1 shall be the Assistant to the President for National Security Affairs;

(P) 1 shall be the Counsel to the President;

(Q) 1 shall be the Chairman of the Joint Chiefs of Staff; and

(R) 1 shall be the National Security Adviser to the Vice President.

(2) ADDITIONAL MEMBERS.—The President may, in the discretion of the President, appoint additional members to the Council.

(c) FUNCTIONS.—The Council shall advise and assist the President in—

(1) providing direction and oversight for the national drug control strategy, including relating drug control policy to other national security interests and establishing priorities; and

(2) ensuring coordination among departments and agencies of the Federal Government concerning implementation of the National Drug Control Strategy.

(d) ADMINISTRATION.—

(1) IN GENERAL.—The Council may utilize established or ad hoc committees, task forces, or interagency groups chaired by the Director (or a representative of the Director) in carrying out the functions of the Council under this section.

(2) STAFF.—The staff of the Office, in coordination with the staffs of the Vice President and the Assistant to the President for National Security Affairs, shall act as staff for the Council.

(3) COOPERATION FROM OTHER AGENCIES.—Each department and agency of the executive branch shall—

(A) cooperate with the Council in carrying out the functions of the Council under this section; and

(B) provide such assistance, information, and advice as the Council may request, to the extent permitted by law.

* * * * * * *

(3) International Narcotics Control Corrections Act of 1994

Partial text of Public Law 103–447 [H.R. 5246], 108 Stat. 4691, approved November 2, 1994

AN ACT To amend the Foreign Assistance Act of 1961 to make certain corrections relating to international narcotics control activities, and for other purposes.

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

SECTION 1.[1] SHORT TITLE.

This Act may be cited as the "International Narcotics Control Corrections Act of 1994".

TITLE I—INTERNATIONAL NARCOTICS CONTROL

* * * * * * *

SEC. 104.[2] EXEMPTION OF NARCOTICS-RELATED MILITARY ASSISTANCE FOR FISCAL YEAR 1995 FROM PROHIBITION ON ASSISTANCE FOR LAW ENFORCEMENT AGENCIES.

(a) EXEMPTION.—For fiscal year 1995, section 660 of the Foreign Assistance Act of 1961 (22 U.S.C. 2420) shall not apply with respect to—

(1) transfers of excess defense articles under section 517 of that Act (22 U.S.C. 2321k);

(2) funds made available for the "Foreign Military Financing Program" under section 23 of the Arms Export Control Act (22 U.S.C. 2763) that are used for assistance provided for narcotics-related purposes; or

(3) international military education and training under chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 and following) that is provided for narcotics-related purposes.

(b) NOTIFICATION TO CONGRESS.—At least 15 days before any transfer under subsection (a)(1) or any obligation of funds under subsection (a)(2) or (a)(3), the President shall notify the appropriate congressional committees (as defined in section 481(e)of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(e)) in accordance with the procedures applicable to reprogramming notifications under section 634A of that Act (22 U.S.C. 2394).

(c) COORDINATION WITH INTERNATIONAL NARCOTICS CONTROL ASSISTANCE PROGRAM.—Assistance provided pursuant to this section shall be coordinated with international narcotics control assistance under chapter 8 of part 1 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 et seq.).

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[1] 22 U.S.C. 2151 note.
[2] 22 U.S.C. 2420 note.

SEC. 105.[3] WAIVER OF RESTRICTIONS FOR NARCOTICS-RELATED ECONOMIC ASSISTANCE.

For fiscal year 1995, narcotics-related assistance under part I of the Foreign Assistance Act of 1961 may be provided notwithstanding any other provision of law that restricts assistance to foreign countries (other than section 490(e) of that Act (22 U.S.C. 2291j(e)) if, at least 15 days before obligating funds for such assistance, the President notifies the appropriate congressional committees (as defined in section 481(e) of that Act (22 U.S.C. 2291(e)) in accordance with the procedures applicable to reprogramming notifications under section 634A of that Act (22 U.S.C. 2394).

SEC. 106.[3, 4] AUTHORITY FOR ANTICRIME ASSISTANCE.

(a) POLICY.—International criminal activities, including international narcotics trafficking, money laundering, smuggling, and corruption, endanger political and economic stability and democratic development, and assistance for the prevention and suppression of international criminal activities should be a priority for the United States.

(b) AUTHORITY.—

(1) IN GENERAL.—For fiscal year 1995, the President is authorized to furnish assistance to any country or international organization, on such terms and conditions as he may determine, for the prevention and suppression of international criminal activities.

(2) WAIVER OF PROHIBITION OF POLICE TRAINING.—Section 660 of the Foreign Assistance Act of 1961 (22 U.S.C. 2420) shall not apply with respect to assistance furnished under paragraph (1).

SEC. 107.[5] ASSISTANCE TO DRUG TRAFFICKERS.

The President shall take all reasonable steps provided by law to ensure that the immediate relatives of any individual described in section 487(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291f(a)), and the business partners of any such individual or of any entity described in such section, are not permitted entry into the United States, consistent with the provisions of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

TITLE II—NATO PARTICIPATION ACT OF 1994[6]

* * * * * * *

[3] 22 U.S.C. 2151 note.

[4] In an April 4, 1995, memorandum for the Secretary of State, the President delegated authority under this section with respect to funds made available to the Secretary of State (60 F.R. 19153).

[5] 8 U.S.C. 1182 note.

[6] For title II, see *Legislation on Foreign Relations Through 2004*, vol. II.

(4) International Narcotics Control Act of 1990

Partial text of Public Law 101–623 [H.R. 5567], 104 Stat. 3350, approved November 21, 1990

AN ACT To authorize international narcotics control activities for fiscal year 1991, and for other purposes.

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

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a)[1] SHORT TITLE.—This Act may be cited as the "International Narcotics Control Act of 1990".

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

	Page
Sec. 1. Short title and table of contents	380
Sec. 2. Economic assistance and administration of justice programs for Andean countries	380
Sec. 3. Military and law enforcement assistance for Andean countries	381
Sec. 4. General provisions relating to assistance for Andean countries	384
Sec. 5. International narcotics control assistance	385
Sec. 6. Assistance for agricultural and industrial alternatives to narcotics production	385
Sec. 7. Exceptions to requirement that aircraft provided to foreign countries for narcotics control purposes be leased rather than sold	386
Sec. 8. Number of members of United States Armed Forces in Andean countries	386
Sec. 9. Nonapplicability of certification procedures to certain major drug-transit countries	386
Sec. 10. Authority to transfer military assistance funds to economic programs	386
Sec. 11. Extradition of United States citizens	386
Sec. 12. Congressional review of narcotics-related assistance for Afghanistan	386
Sec. 13. Training of foreign pilots	386
Sec. 14. Review of riverine program	387
Sec. 15. Uses of excess defense articles transferred to certain major illicit drug producing countries	387
Sec. 16. Export-Import Bank financing for sales of defense articles and services	387
Sec. 17. Debt-for-drugs exchanges	387

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

(a) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts otherwise authorized to be appropriated, there are authorized to be appropriated $300,000,000 for fiscal year 1991 for assistance for Andean countries under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund) or under chapter 1 of part I of that Act (22 U.S.C. 2151 and following; relating to development assistance).

(b) ADMINISTRATION OF JUSTICE PROGRAMS.—

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

(1) ADDITIONAL ASSISTANCE FOR BOLIVIA, COLOMBIA, AND PERU.—Of the funds authorized to be appropriated by subsection (a) that are appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961, up to $16,000,000 should be used to provide assistance for Bolivia, Colombia, and Peru—

(A) pursuant to section 534 of that Act (22 U.S.C. 2346c; relating to the administration of justice program), in addition to funds otherwise used for those countries under that section for fiscal year 1991; and

(B) pursuant to paragraphs (2) and (3) of this subsection.

(2) PROTECTION AGAINST NARCO-TERRORIST ATTACKS.—Funds used in accordance with paragraph (1) may be used to provide to Bolivia, Colombia, and Peru, notwithstanding section 660 of the Foreign Assistance Act of 1961 (22 U.S.C. 2420; relating to the prohibition on assistance to law enforcement agencies), such assistance as the government of that country may request to provide protection against narco-terrorist attacks on judges, other government officials, and members of the press.

(3) ASSISTANCE FOR COLOMBIA'S OFFICE OF SPECIAL INVESTIGATIONS AND SPECIAL PROSECUTOR FOR HUMAN RIGHTS.—It is the sense of the Congress that up to $2,000,000 of the funds used in accordance with paragraph (1) should be used for assistance for Colombia to provide training, technical assistance, and equipment for the Office of Special Investigations and the Special Prosecutor for Human Rights, both of which are within the Office of the Attorney General of the Government of Colombia.

(4) ADDITIONALITY OF ASSISTANCE.—Funds may be used in accordance with paragraph (1) of this subsection without regard to the dollar limitation contained in section 534(c) of the Foreign Assistance Act of 1961.

(5) PERIOD OF AVAILABILITY.—Funds allocated for use in accordance with paragraph (1) of this subsection shall remain available until expended notwithstanding any other provision of law.

(6) EXTENSION OF AUTHORITY FOR AOJ PROGRAM.—Section 534(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2346c(e)) is amended—

(A) in the second sentence by striking out "$7,000,000 may be made available in fiscal year 1990" and inserting in lieu thereof "$10,000,000 may be made available in fiscal year 1991"; and

(B) in the third sentence by striking out "1990" and inserting in lieu thereof "1991".

SEC. 3. MILITARY AND LAW ENFORCEMENT ASSISTANCE FOR ANDEAN COUNTRIES.

(a) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts otherwise authorized to be appropriated, there are authorized to be appropriated $118,000,000 for fiscal year 1991 for assistance for Andean countries under the "FOREIGN MILITARY FINANCING PROGRAM" account under section 23 of the Arms Export Control Act (22 U.S.C. 2763).

(b) PURPOSES OF ASSISTANCE.—Assistance under subsection (a) shall be designed to—

(1) enhance the ability of the government of the recipient country to control illicit narcotics production and trafficking;

(2) strengthen the bilateral ties of the United States with that government by offering concrete assistance in this area of great mutual concern;

(3) strengthen respect for internationally recognized human rights and the rule of law in efforts to control illicit narcotics production and trafficking; and

(4) assist the armed forces of the Andean countries in their support roles for those countries' law enforcement agencies, which are charged with the main responsibility for the control of illicit narcotics production and trafficking.

(c) CONDITIONS OF ELIGIBILITY.—Assistance may be provided for an Andean country under subsection (a) only—

(1) so long as that country has a democratic government; and

(2) the government of that country, including the armed forces and law enforcement agencies, does not engage in a consistent pattern of gross violations of internationally recognized human rights (as defined in section 502B(d)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(d)(1))).

(d) LAW ENFORCEMENT TRAINING AND EQUIPMENT.—Subject to subsection (e), funds made available to carry out subsection (a) may be used, notwithstanding section 660 of the Foreign Assistance Act of 1961 (22 U.S.C. 2420; relating to the prohibition on assistance to law enforcement agencies)—

(1) to provide to law enforcement units, that are organized for the specific purpose of narcotics enforcement, education and training in the operation and maintenance of equipment used in narcotics control interdiction and eradication efforts;

(2) for the expenses of deploying, upon the request of the Government of Bolivia, the Government of Colombia, or the Government of Peru, Department of Defense mobile training teams in that country to conduct training in military-related individual and collective skills that will enhance that country's ability to conduct tactical operations in narcotics interdiction; and

(3) for the procurement of defense articles or commodities (as defined in section 644(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2403(c))) for use in narcotics control, eradication, and interdiction efforts by law enforcement units that are organized for the specific purpose of narcotics enforcement.

(e) MILITARY AND LAW ENFORCEMENT ASSISTANCE.—

(1) LIMITATIONS ON AMOUNTS.—The aggregate amount of military and law enforcement assistance provided for Bolivia, Colombia, and Peru for fiscal year 1991 may not exceed $250,000,000. Of that amount—

(A) not more than $175,000,000 may be assistance for the armed forces; and

(B) not more than $175,000,000 may be assistance for law enforcement units or agencies.

(2) DEFINITION OF MILITARY AND LAW ENFORCEMENT ASSISTANCE.—For purposes of paragraph (1), the term "amount of military and law enforcement assistance" means the sum of—

(A) the amount obligated for assistance under the "FOREIGN MILITARY FINANCING PROGRAM" account under section 23 of the Arms Export Control Act (22 U.S.C. 2763);

(B) the amount obligated for assistance under chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 and following; relating to international narcotics control assistance);

(C) the amount obligated for assistance under chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 and following; relating to international military education and training);

(D) the value of defense articles, defense services, and military education and training made available under the special drawdown authority of paragraphs (1) and (2) of section 506(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2318(a)); and

(E) the value of excess defense articles made available under section 517 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321k).

(f) LIMITATIONS ON AMOUNT OF EXCESS DEFENSE ARTICLES TRANSFERRED TO BOLIVIA, COLOMBIA, AND PERU.—

(1) ESTABLISHMENT OF LIMIT.—The aggregate acquisition cost to the United States of excess defense articles ordered by the President in fiscal year 1991 for delivery to Bolivia, Colombia, and Peru under section 517 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321k) may not exceed $60,000,000.

(2) WAIVER OF EXISTING GRANT EDA LIMITATION.—The dollar limitation in section 517(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321k(e)) shall not apply with respect to Bolivia, Colombia, and Peru in fiscal year 1991.

(3) WORLDWIDE LIMITATION ON AMOUNT OF EXCESS DEFENSE ARTICLES TRANSFERRED.—Section 31(d) of the Arms Export Control Act (22 U.S.C. 2771(d)) shall not apply to excess defense articles ordered for transfer to Bolivia, Colombia, or Peru under section 517 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321k) in fiscal year 1991.

(g) ASSISTANCE FOR LEASING OF AIRCRAFT.—

(1) USE OF FUNDS.—For purposes of satisfying the requirement of section 484 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291c), funds made available under subsection (a) may be used to finance the leasing of aircraft under chapter 6 of the Arms Export Control Act.

(2) COST OF LEASES.—Section 61(a)(3) of the Arms Export Control Act shall not apply with respect to leases so financed; rather the entire cost of any such lease (including any renewals) shall be an initial, one time payment of the amount which would be the sales price for the aircraft if they were sold under section 21(a)(1)(B) or section 22 of that Act (as appropriate).

(3) REIMBURSEMENT OF SDAF.—To the extent that aircraft so leased were acquired under chapter 5 of the Arms Export Control Act, funds used pursuant to this subsection to finance such

leases shall be credited to the Special Defense Acquisition Fund under chapter 5 of that Act (excluding the amount of funds that reflects the charges described in section 21(e)(1) of that Act). The funds described in the parenthetical clause of the preceding sentence shall be available for payments consistent with sections 37(a) and 43(b) of that Act.

SEC. 4. GENERAL PROVISIONS RELATING TO ASSISTANCE FOR ANDEAN COUNTRIES.

(a)[2] PRESIDENTIAL DETERMINATION REQUIRED.—Assistance may be provided for an Andean country pursuant to the authorizations of appropriations provided in section 2(a) and section 3(a), and excess defense articles may be transferred to Bolivia, Colombia, or Peru in fiscal year 1991 pursuant to section 517 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321k), only if the President determines that—

(1) that country is implementing programs to reduce the flow of cocaine to the United States in accordance with a bilateral or multilateral agreement, to which the United States is a party, that contains specific, quantitative and qualitative, performance criteria with respect to those programs;

(2) the armed forces and law enforcement agencies of that country are not engaged in a consistent pattern of gross violations of internationally recognized human rights, and the government of that country has made significant progress in protecting internationally recognized human rights, particularly in—

(A) ensuring that torture, cruel, inhuman, or degrading treatment or punishment, incommunicado detention or detention without charges and trial, disappearances, and other flagrant denials of the right to life, liberty, or security of the person, are not practiced; and

(B) permitting an unimpeded investigation of alleged violations of internationally recognized human rights, including providing access to places of detention, by appropriate international organizations (including nongovernmental organizations such as the International Committee of the Red Cross) or groups acting under the authority of the United Nations or the Organization of American States; and

(3) the government of that country has effective control over police and military operations related to counternarcotics and counterinsurgency activities.

(b) NOTIFICATIONS TO CONGRESS.—Not less than 15 days before funds are obligated pursuant to section 2(a) or section 3(a), the President shall transmit to the congressional committees specified

[2] The President delegated functions required in sec. 4(a) and (e), to the Secretary of State. He further delegated functions in sec. 13 to the Secretary of State in consultation with the Secretary of Defense, and functions in secs. 8 and 13 to the Secretary of Defense, and allowed reporting requirements to be further redelegated within executive departments or relevant agencies (Presidential Determination No. 91–20 of January 25, 1991; 56 F.R. 8681; March 1, 1991).

The Acting Secretary of State made such a determination as required in sec. 4(a) regarding Peru on August 9, 1991 (Department of State Public Notice 1447; 56 F.R. 38165; August 12, 1991). The Secretary of State made such determinations as required in sec. 4(a) regarding Bolivia, Colombia, and Ecuador on November 6, 1991 (Department of State Public Notice 1518; 56 F.R. 57030; November 7, 1991).

in section 634A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1) a written notification in accordance with the procedures applicable to reprogrammings under that section. Such notification shall specify—

(1) the country to which the assistance is to be provided;

(2) the type and value of the assistance to be provided;

(3) in the case of assistance provided pursuant to section 3(a), the law enforcement or other units that will receive the assistance; and

(4) an explanation of how the proposed assistance will further—

(A) the objectives specified in subsection (a) of this section, and

(B) in the case of assistance under section 3(a), the purposes specified in section 3(b).

(c) COORDINATION WITH INTERNATIONAL NARCOTICS CONTROL ASSISTANCE PROGRAM.—Assistance authorized by section 2(a) and section 3(a) shall be coordinated with assistance provided under chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 and following; relating to international narcotics control assistance).

(d) CONDITIONAL WAIVER OF BROOKE-ALEXANDER AMENDMENT.—For fiscal year 1991, section 620(q) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(q)) and section 518 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991, shall not apply with respect to narcotics-related assistance for an Andean country, provided the President has made the determination described in subsection (a) of this section.

(e)[2] AUTHORITY TO WAIVER REQUIREMENT TO WITHHOLD 50 PERCENT OF ASSISTANCE PENDING CERTIFICATION.—Section 481(h)(1)(A) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(h)(1)(A)) shall not apply with respect to Bolivia, Colombia, and Peru for fiscal year 1991 if the President—

(1) determines that its application would be contrary to the national interest; and

(2) transmits written notification of that determination to the congressional committees specified in section 634A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1) in accordance with the procedures applicable to reprogrammings under that section.

SEC. 5. INTERNATIONAL NARCOTICS CONTROL ASSISTANCE.

There are authorized to be appropriated $150,000,000 for fiscal year 1991 for assistance under chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 and following; relating to international narcotics control assistance).

SEC. 6.[3] ASSISTANCE FOR AGRICULTURAL AND INDUSTRIAL ALTERNATIVES TO NARCOTICS PRODUCTION.

(a) WAIVER OF RESTRICTIONS.—For the purpose of reducing dependence upon the production of crops from which narcotic and psychotropic drugs are derived, the President may provide assistance to a foreign country under chapter 1 of part I of the Foreign

[3] 22 U.S.C. 2151x–1.

Assistance Act of 1961 (22 U.S.C. 2151 and following; relating to development assistance) and chapter 4 of part II of that Act (22 U.S.C. 2346 and following; relating to the economic support fund) to promote the production, processing, or the marketing of products or commodities, notwithstanding any other provision of law that would otherwise prohibit the provision of assistance to promote the production, processing, or the marketing of such products or commodities.

(b) EFFECTIVE DATE.—Subsection (a) applies with respect to funds made available for fiscal year 1991 or any fiscal year thereafter.

SEC. 7.[4] EXCEPTIONS TO REQUIREMENT THAT AIRCRAFT PROVIDED TO FOREIGN COUNTRIES FOR NARCOTICS CONTROL PURPOSES BE LEASED RATHER THAN SOLD. * * *

SEC. 8.[2, 5] NUMBER OF MEMBERS OF UNITED STATES ARMED FORCES IN ANDEAN COUNTRIES.

MONTHLY REPORTS.—Within 15 days after the end of each month, the President shall submit to the Congress a report listing the number of members of the United States Armed Forces who were assigned or detailed to, or otherwise performed functions in, each Andean country at any time during that month.

SEC. 9.[6] NONAPPLICABILITY OF CERTIFICATION PROCEDURES TO CERTAIN MAJOR DRUG-TRANSIT COUNTRIES. * * *

SEC. 10.[7] AUTHORITY TO TRANSFER MILITARY ASSISTANCE FUNDS TO ECONOMIC PROGRAMS. * * *

SEC. 11.[8] EXTRADITION OF UNITED STATES CITIZENS. * * *

SEC. 12. CONGRESSIONAL REVIEW OF NARCOTICS-RELATED ASSISTANCE FOR AFGHANISTAN.

Not less than 15 days before obligating funds made available for any fiscal year to carry out the Foreign Assistance Act of 1961 or the Arms Export Control Act for any assistance for Afghanistan that has narcotics control as one of its purposes, the President shall notify the congressional committees specified in section 634A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1) in accordance with the procedures applicable to reprogramming notifications under that section.

SEC. 13.[2, 9] TRAINING OF HOST COUNTRY PILOTS.

(a) INSTRUCTION PROGRAM.—Not less than 90 days after the date of enactment of this Act, the President shall implement, under chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 and following; relating to international narcotics control assistance), a detailed program of instruction to train host country pilots, and other flight crew members, to fly host country aircraft involved in counternarcotics efforts in Andean countries. Such program shall be designed to eliminate direct participation of the United States Government (including participation through the use

[4] Sec. 7 amended sec. 484 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291c).
[5] 22 U.S.C. 2291 note.
[6] Sec. 9 amended sec. 8 of the International Narcotics Control Act of 1989.
[7] Sec. 10 amended sec. 610(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2360(a)).
[8] Sec. 11 amended chapter 209 of title 18, U.S.C., by adding a new sec. 3196.
[9] 22 U.S.C. 2291h note.

of either direct hire or contract personnel) in the operation of such aircraft.

(b) REQUIREMENT FOR REPLACEMENT OF UNITED STATES GOVERNMENT PILOTS BY HOST COUNTRY PILOTS.—The President shall ensure that, within 18 months after the date of enactment of this Act, flight crews composed of host country personnel replace all United States Government pilots and other flight crew members (including both direct hire or contract personnel) for host country aircraft involved in airborne counternarcotics operations in the Andean countries.

(c) AIRCRAFT SUBJECT TO REQUIREMENTS.—As used in this section, the term "host country aircraft" means any aircraft made available to an Andean country by the United States Government under chapter 8 of part I of the Foreign Assistance Act of 1961, or any other provision of law, for use by that country for narcotics-related purposes.

SEC. 14. REVIEW OF RIVERINE PROGRAM.

Funds made available to carry out the Foreign Assistance Act of 1961 or the Arms Export Control Act may not be used for the procurement of surface water craft for counternarcotics programs in the Andean countries until the Secretary of State and the Secretary of Defense have jointly assessed and audited, and have submitted a report to Congress on—

(1) the specific goals and objectives of such programs;

(2) how such craft will further the attainment of those goals and objectives;

(3) the cost and utility of craft to be provided; and

(4) how such craft will be sustained through maintenance and training.

SEC. 15.[10] USES OF EXCESS DEFENSE ARTICLES TRANSFERRED TO CERTAIN MAJOR ILLICIT DRUG PRODUCING COUNTRIES. * * *

SEC. 16.[11] EXPORT-IMPORT BANK FINANCING FOR SALES OF DEFENSE ARTICLES AND SERVICES. * * *

SEC. 17. DEBT-FOR-DRUGS EXCHANGES.

(a) FINDINGS.—The Congress finds that—

(1) section 10 of the International Narcotics Control Act of 1989 gives the President the authority to provide relief with respect to certain debt owed to the United States Government by the Government of Bolivia, the Government of Colombia, or the Government of Peru if the President determines that that country is implementing programs to reduce the flow of cocaine to the United States;

(2) President Bush has endorsed the concept of debt relief with respect to debt owed by Latin American governments to the United States Government in his "Enterprise for Americans Initiative", announced June 27, 1990; and

(3) President Bush has proposed forgiveness of foreign military sales debt owed by the Government of Egypt to the United States Government.

[10] Sec. 15 amended sec. 517(c) of the Foreign Assistance Act of 1961.
[11] Sec. 16 amended sec. 2(b)(6)(B)(vi) of the Export-Import Bank Act of 1945.

(b) USE OF DEBT-FOR-DRUGS AUTHORITY.—The Congress urges the President to use the authority provided in section 10 of the International Narcotics Control Act of 1989 to forgive debt owed to the United States Government by the Government of Bolivia, the Government of Colombia, and the Government of Peru.

(5) Licit Opium Imports

Title XXVI of Public Law 101–647 [Crime Control Act of 1990, S. 3266], 104 Stat. 4789 at 4911, approved November 29, 1990

AN ACT To control crime.

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

SEC. 1.[1] SHORT TITLE.

This Act may be cited as the "Crime Control Act of 1990".

* * * * * * *

TITLE XXVI—LICIT OPIUM IMPORTS

SEC. 2501. UNITED STATES POLICY REGARDING IMPORTATION OF NARCOTIC RAW MATERIAL.

(a) REVIEW REQUIRED.—The President shall conduct a review of United States narcotics raw material policy to determine the advisability of continued reliance on the "80–20 rule" (21 C.F.R. sec. 1312.13) by which at least 80 percent of United States imports of narcotics raw material must come from India and Turkey.

(b) AGENCIES TO BE INVOLVED.—This review shall include information and views from the Department of State, the Administrator of the Drug Enforcement Administration, and the Secretary of the Department of Health and Human Services, the Secretary of Commerce and any other agencies the President determines appropriate.

(c) NATURE AND CONTENTS.—This review shall include—

(1) a report on the extent of the diversion taking place from the licit to the illicit market in India from the farm gate through the stockpile;

(2) an evaluation of the efforts being made by the Government of India to stop diversion from the licit to the illicit market, to limit its stockpile of opium gum, and to limit and regulate the amount of land and number of farmers devoted to poppy cultivation, and the success or failure of these efforts;

(3) a description of the steps the President has taken to encourage these actions on the part of the Indian government, what further steps are contemplated and what action will be taken if Indian action proves ineffective;

(4) an assessment of whether continued reliance on the 80–20 rules serves to encourage these actions, an assessment of what circumstances would make continued reliance on the rule unacceptable to the President, and proposals for executive or legislative modification of the rule under those circumstances;

[1] 18 U.S.C. 1 note.

(5) an assessment of the feasibility of India converting from the opium gum to the concentrated poppy straw method of opium production;

(6) an assessment of the effects on United States supplies of narcotic raw material in the absence of 80–20; and

(7) an evaluation of the potential for market manipulation under the 80–20 rule.

(d) REPORTS TO CONGRESS.—The President shall report the results of this review to Congress not later than April 1, 1991.

* * * * * * *

(6) International Narcotics Control Act of 1989

Partial text of Public Law 101–231 [H.R. 3611], 103 Stat. 1954, approved December 13, 1989; as amended by Public Law 101–623 [International Narcotics Control Act of 1990, H.R. 5567], 104 Stat. 3350, approved November 21, 1990; and Public Law 102–583 [International Narcotics Control Act of 1992; H.R. 6187], 106 Stat. 4914, approved November 2, 1992

AN ACT To combat international narcotics production and trafficking.

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

SECTION 1.[1] SHORT TITLE AND TABLE OF CONTENTS

(a) SHORT TITLE.—This Act may be cited as the "International Narcotics Control Act of 1989".

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

	Page
Sec. 1. Short title and table of contents	391
Sec. 2. Andean drug initiative	391
Sec. 3. Military and law enforcement assistance for Bolivia, Colombia, and Peru	393
Sec. 4. Acquisition by Special Defense Acquisition Fund of defense articles for narcotics control purposes	395
Sec. 5. Excess defense articles for certain major illicit drug producing countries	395
Sec. 6. Waiver of Brooke-Alexander amendment for major coca producing countries	395
Sec. 7. Mexico	395
Sec. 8. Nonapplicability of certification procedures to certain major drug-transit countries	397
Sec. 9. Coordination of United States trade policy and narcotics control objectives	398
Sec. 10. Debt-for-drugs exchanges	398
Sec. 11. Multilateral antinarcotics strike force	398
Sec. 12. Weapons transfers to international narcotics traffickers	399
Sec. 13. Rewards for information concerning acts of international terrorism	399
Sec. 14. Waiver of Bumpers Amendment	400
Sec. 15. Participation in foreign police actions	400
Sec. 16. Authorization of appropriations for international narcotics control assistance	400
Sec. 17. Revisions of certain narcotics-related provisions of the Foreign Assistance Act	400

SEC. 2. ANDEAN DRUG INITIATIVE.

(a) FINDINGS RELATING TO ECONOMIC ASSISTANCE NEEDS.—The Congress finds that—

(1) it is crucial to international antidrug efforts that funds be made available for crop substitution programs and alternative employment opportunities to provide alternative sources of income for those individuals in major coca producing countries who are dependent on illicit drug production activities, as

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

well as for eradication, enforcement, rehabilitation and treatment, and education programs in those countries; and

(2) the United States and other major donor countries (including European countries and Japan) should provide increased economic assistance, on an urgent basis, to those major coca producing countries which have taken concrete steps to attack illicit coca production, processing, and trafficking, by eradication, interdiction, or other methods which significantly reduce the flow of cocaine to the world market.

(b) PLAN TO ADDRESS NEED FOR ASSISTANCE.—The Congress, therefore, urges the Director of National Drug Control Policy to submit to the Congress in February 1990, as part of the National Drug Control Strategy report required by section 1005 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1504), a plan which addresses the need outlined in subsection (a).

(c) ANDEAN SUMMIT.—The Congress urges the President in the strongest possible terms to include the following issues on the formal agenda of the meeting between the President and the heads of government of Bolivia, Colombia, and Peru, scheduled for early February 1990:

(1) Bilateral and multilateral antidrug efforts that make funds available for crop substitution programs and alternative employment opportunities in major coca producing countries, as well as for eradication, enforcement, rehabilitation and treatment, and education programs in those countries.

(2) Initiatives to improve and expand antidrug efforts in the Andean region, including through the use of United States international economic, commercial, and other policies.

(3) Prior bilateral discussions aimed at increasing multilateral economic development assistance from Japan, Canada, and Western European countries for antidrug efforts in the Andean region.

(4) Debt-for-drugs exchanges that forgive Andean bilateral debt held by the United States and other creditor countries in return for commitments by Andean governments to use the savings in debt service for antidrug programs, pursuant to agreements negotiated under section 481(h)(2)(B) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(h)(2)(B)) and other international agreements and initiatives.

(5) Bilateral and multilateral efforts to halt the transfer of arms, precursor chemicals, and sophisticated communications equipment and technology from legitimate sources to drug trafficking organizations.

(d) REPORT ON ANDEAN SUMMIT MEETING.—Not later than 30 days after the conclusion of the Andean summit meeting described in subsection (c), the President shall report to the Congress on the outcome of that meeting.

(e) SUPPLEMENTAL BUDGET REQUESTS.—At the same time as he submits the report required by subsection (d), the President shall submit to the Congress such supplemental budget requests for fiscal years 1990 and 1991 as may be necessary to cover the United States share of the cost of additional economic assistance to implement an Andean antidrug strategy, including the commitments made at the Andean summit meeting described in subsection (c).

SEC. 3.[2] MILITARY AND LAW ENFORCEMENT ASSISTANCE FOR BOLIVIA, COLOMBIA, AND PERU.

(a) PURPOSES OF ASSISTANCE.—Assistance provided under this section shall be designed to—

(1) enhance the ability of the Government of Bolivia, the Government of Colombia, and the Government of Peru to control illicit narcotics production and trafficking;

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

(3) strengthen respect for internationally recognized human rights and the rule of law in efforts to control illicit narcotics production and trafficking.

(b) MILITARY ASSISTANCE AND TRAINING.—Subject to the requirements of this section, the President is authorized to use the funds made available to carry out this section to provide defense articles, defense services, and international military education and training to Bolivia, Colombia, and Peru. Such assistance shall be provided under the authorities of section 23 of the Arms Export Control Act (22 U.S.C. 2763; relating to foreign military financing program) and chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 and following; relating to international military education and training). Such assistance is in addition to any other such assistance made available to those countries.

(c) LAW ENFORCEMENT TRAINING.—

(1) AUTHORIZED FORMS AND RECIPIENTS OF ASSISTANCE.—Subject to paragraph (2), up to $6,500,000 of the funds made available to carry out this section may be used, notwithstanding section 660 of the Foreign Assistance Act of 1961 (22 U.S.C. 2420; relating to the prohibition on law enforcement assistance)—

(A) to provide to law enforcement agencies, or other units, that are organized for the specific purpose of narcotics enforcement by the Government of Bolivia, the Government of Colombia, or the Government of Peru, education and training in the operation and maintenance of equipment used in narcotics control interdiction and eradication efforts; and

(B) for the expenses of deploying, upon the request of the Government of Bolivia, the Government of Colombia, or the Government of Peru, Department of Defense mobile training teams in that country to conduct training in military-related individual and collective skills that will enhance that country's ability to conduct tactical operations in narcotics interdiction.

[2] 22 U.S.C. 2291 note.

(2) OFFSETTING REDUCTION.—The amount that may be used under paragraph (1) shall be reduced by the amount of any assistance provided for Bolivia, Colombia, or Peru under the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, for the purposes specified in subparagraph (A) or (B) of paragraph (1).[3]

(d) EQUIPMENT FOR LAW ENFORCEMENT UNITS.—

(1) AUTHORIZED FORMS AND RECIPIENTS OF ASSISTANCE.—Subject to paragraph (2), up to $12,500,000 of the funds made available to carry out this section may be used, notwithstanding section 660 of the Foreign Assistance Act of 1961 (22 U.S.C. 2420; relating to the prohibition on law enforcement assistance), for the procurement of defense articles for use in narcotics control, eradication, and interdiction efforts by law enforcement agencies, or other units, that are organized for the specific purpose of narcotics enforcement.

(2) OFFSETTING REDUCTION.—The amount that may be used under paragraph (1) shall be reduced by the amount of any assistance provided for Bolivia, Colombia, or Peru under the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, for the procurement of weapons or ammunition in accordance with the general authorities contained in section 481(a) of the Foreign Assistance Act of 1961.

(e) CONDITIONS OF ELIGIBILITY.—Assistance may be provided under this section to Bolivia, Colombia, or Peru only—

(1) so long as that country has a democratic government; and

(2) the law enforcement agencies of that country do not engage in a consistent pattern of gross violations of internationally recognized human rights (as defined in section 502B(d)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(d)(1)).

(f) NOTIFICATIONS TO CONGRESS.—Not less than 15 days before funds are obligated pursuant to this section, the President shall transmit to the congressional committees specified in section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1) a written notification in accordance with the procedures applicable to reprogrammings under that section. Such notification shall specify—

(1) the country to which the assistance is to be provided;

(2) the type and value of the assistance to be provided;

(3) the law enforcement agencies or other units that will receive the assistance; and

(4) an explanation of how the proposed assistance will achieve the purposes specified in subsection (a) of this section.

(g) REPORTS ON HUMAN RIGHTS SITUATION.—Section 502B(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(c); relating to country-specific human rights reports upon the request of the foreign affairs committees) applies with respect to countries for which assistance authorized by this section is proposed or is being provided.

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[3] In the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167; 103 Stat. 1195), see sec. 569, "Narcotics Control Program" (103 Stat. 1243), and sec. 599H, "Crops in Peru, Bolivia and Jamaica" (103 Stat. 1265).

(h) COORDINATION WITH INTERNATIONAL NARCOTICS CONTROL ASSISTANCE PROGRAM.—Assistance under this section shall be coordinated with assistance provided under chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 and following; relating to international narcotics control assistance).

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $125,000,000 for fiscal year 1990 to carry out this section, which amount is authorized to be made available until expended.

(j)[4] CERTAIN FUNDING LIMITATIONS.—The dollar limitations specified in subsections (c)(1) and (d)(1) shall not apply after the date of enactment of this subsection.

SEC. 4.[5] ACQUISITION BY SPECIAL DEFENSE ACQUISITION FUND OF DEFENSE ARTICLES FOR NARCOTICS CONTROL PURPOSES. * * *

SEC. 5.[6] EXCESS DEFENSE ARTICLES FOR CERTAIN MAJOR ILLICIT DRUG PRODUCING COUNTRIES. * * *

SEC. 6. WAIVER OF BROOKE-ALEXANDER AMENDMENT FOR MAJOR COCA PRODUCING COUNTRIES.

During fiscal year 1990, section 620(q) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(q)) and section 518 of the Foreign Operations, Export Financing, and Related Programs Appropriation Act, 1990, do not apply with respect to narcotics-related assistance for a country which is a major illicit drug producing country (as defined in section 481(i)(2) of the Foreign Assistance Act of 1961) because of its coca production.

SEC. 7. MEXICO.

(a) LIMITATION ON NARCOTICS CONTROL ASSISTANCE.—

(1) LIMITATION.—Except as provided in paragraph (2), not more than $15,000,000 of the amounts made available for fiscal year 1990 to carry out chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 and following; relating to international narcotics control assistance) may be made available for Mexico.

(2) PROCEDURE FOR ADDITIONAL ASSISTANCE.—Assistance in excess of the amount specified in paragraph (1) may be made available for Mexico only if the congressional committees specified in section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1) are notified at least 15 days in advance in accordance with the procedures applicable to reprogrammings under that section.

(b) SENATE POLICY TOWARD THE CONTROL OF ILLEGAL DRUGS IN MEXICO.—

(1) FINDINGS.—The Senate finds that—

(A) the Foreign Assistance Act of 1961 requires, except in cases of vital national interest, that all countries determined to be a major illicit drug producing country or a major drug-transit country must be "cooperating fully"

[4] Sec. 6(d) of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4933; November 2, 1992) added subsec. (j).

[5] Sec. 4 amended sec. 51(a) of the Arms Export Control Act (22 U.S.C. 2795(a)).

[6] Sec. 5 amended chapter 2 of part II of the Foreign Assistance Act (22 U.S.C. 2311 and following) by adding a new sec. 517.

with United States antinarcotics activities in order to continue receiving various forms of United States foreign assistance;

(B) relations between the United States and Mexico have suffered since the 1985 kidnapping and murder of Drug Enforcement Administration agent Enrique Camarena and the 1986 torture of DEA agent Victor Cortez;

(C) testimony before the Senate dating to 1986 has indicated that high-ranking Mexican government, military, and law enforcement officials have been involved in illegal narcotics operations, including narcotics trafficking operations into the United States;

(D) Mexico has been determined to be the primary producer of marijuana and heroin entering the United States and the transit point for up to 50 percent of the cocaine being smuggled into this country;

(E) there have been three drug-related mass murders involving more than 30 victims along the southwest border in recent months involving Mexican drug trafficking organizations;

(F) the United States continues to seek, with Mexican cooperation, hot pursuit and overflight authority for United States law enforcement agencies, access to bank records, verification of eradication figures, information on those who have been tried, charged, sentenced, and served time for narcotics-related crimes, and extradition of criminal figures;

(G) there was sworn in a new president and Government of Mexico on December 1, 1988, creating a new era of opportunity for increased cooperation and mutual friendship;

(H) the new President of Mexico, Carlos Salinas de Gortari, has indicated a strong willingness to expand and improve Mexico's antinarcotics activities;

(I) the Chief of the Mexico City Police Investigative Service, Miguel Nazar Haro, who is under indictment in the United States, has been fired;

(J) the Government of Mexico has arrested Miguel Angel Felix-Gallardo, one of the most notorious drug trafficking figures in Mexico;

(K) Mexican officials have for the first time conceded that corrupt Mexican officials, including law enforcement, government, and military officials, have previously protected Mr. Gallardo; and

(L) criminal charges of electoral fraud against the mayor of Hermosillo, Carlos Robles, and homicide and arms charges against the head of Mexico's Oil Workers Union, Joaquin Hernandez Galicia, have been filed.

(2) SENATE POLICY.—It is the sense of the Senate that—

(A) President Salinas should be supported in his expressed willingness to end the narcotics-related corruption that has permeated the Government of Mexico in the past;

(B) Mexico should conclude the prosecution of the murders of Drug Enforcement Administration agent Camarena, the perpetrators of torture against DEA agent

Cortez, and make progress in the prosecution of Felix-Gallardo;

(C) Mexico should demonstrate its commitment to cooperating fully in antinarcotics activities by entering into negotiations with the United States on—

(i) joint overflight and hot pursuit operations, involving Mexican law enforcement officials traveling on United States interdiction aircraft with Mexican officers having responsibility for actual arrests of suspects;

(ii) participation of United States law enforcement agencies in air surveillance flights for interdiction efforts and joint United States-Mexico border enforcement and interdiction operations;

(iii) United States requests for access to bank records to assist in carrying out narcotics-related investigations; and

(iv) United States requests for verification of eradication statistics, including ground verification; and

(D) the people of Mexico should be supported in their efforts to rid their country of illicit narcotics, bribery and corruption, and electoral fraud.

SEC. 8. NONAPPLICABILITY OF CERTAIN PROCEDURES TO CERTAIN MAJOR DRUG-TRANSIT COUNTRIES.

Section 481(h) of the Foreign Assistance Act of 1961 shall not apply with respect to a major drug-transit country for fiscal year 1990 or fiscal year 1991[7] if the President certifies to the Congress, during that fiscal year, that—

(1) subparagraph (C) of section 481(i)(5) of that Act, relating to money laundering, does not apply to that country;

(2) the country previously was a major illicit drug producing country but, during each of the preceding two years, has effectively eliminated illicit drug production; and

(3) the country is cooperating fully with the United States or has taken adequate steps on its own—

(A) in satisfying the goals agreed to in an applicable bilateral narcotics agreement with the United States (as described in section 481(h)(2)(B) of that Act) or a multilateral agreement which achieves the objectives of that section;

(B) in preventing narcotic and psychotropic drugs and other controlled substances transported through such country from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from being transported, directly or indirectly, into the United States; and

(C) in preventing and punishing bribery and other forms of public corruption which facilitate the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or which discourage the investigation and prosecution of such acts.

[7] Sec. 9 of the International Narcotics Control Act of 1990 (Public Law 101–623; 104 Stat. 3355) inserted "or fiscal year 1991".

SEC. 9. COORDINATION OF UNITED STATES TRADE POLICY AND NARCOTICS CONTROL OBJECTIVES.

(a) NEED FOR COORDINATION.—It is the sense of the Congress that United States trade policy should be coordinated with United States narcotics control objectives, particularly with respect to issues such as the International Coffee Agreement.

(b) PRESIDENTIAL REVIEW.—The Congress commends the President for reviewing whether the International Coffee Agreement negotiations should be resumed and whether the trade benefits provided in the Caribbean Basin Economic Recovery Act (19 U.S.C. 2701 and following) should be extended to the major coca producing countries of Latin America.

SEC. 10.[8] DEBT-FOR-DRUGS EXCHANGES.

(a) AUTHORITY.—The President may release Bolivia, Colombia, or Peru from its obligation to make payments to the United States Government of principal and interest on account of a loan made to that country under the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following; relating to foreign assistance programs) or credits extended for that country under section 23 of the Arms Export Control Act (22 U.S.C. 2763; relating to foreign military sales credits) if the President determines that that country is implementing programs to reduce the flow of cocaine to the United State in accordance with a formal bilateral or multilateral agreement, to which the United States is a party, that contains specific, quantitative and qualitative, performance criteria with respect to those programs.

(b) CONGRESSIONAL REVIEW OF AGREEMENTS.—The President shall submit any such agreement with Bolivia, Colombia, or Peru to the Committee on Foreign Affairs[9] of the House of Representatives and the Committee on Foreign Relations of the Senate at least 15 days before exercising the authority of section (a) with respect to that country.

(c) COORDINATION WITH MULTILATERAL DEBT RELIEF ACTIVITIES.—The authority provided in subsection (a) shall be exercised in coordination with multilateral debt relief activities.

(d) EFFECTIVE DATE.—Subsection (a) takes effect on October 1, 1990.

SEC. 11. MULTILATERAL ANTINARCOTICS STRIKE FORCE.

(a) FINDINGS.—The Congress finds that—

(1) the Congress has, in the past, indicated its support for a multilateral, regional approach to narcotics control efforts;

(2) a proposal to create a multilateral, international antinarcotics force for the Western Hemisphere, is a plan worthy of praise and strong United States support;

(3) the development of a greater capability to assist the governments of Latin America and the Caribbean, including the Caribbean Basin nations, is an essential component of efforts to interdict the flow of narcotics to the United States; and

[8] 22 U.S.C. 2291 note.

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

(4) regional leadership in the promotion of a multilateral, paramilitary force to combat the drug cartels is welcomed and encouraged.

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

(1) the proposal for the promotion of a regional multilateral antinarcotics force for the Western Hemisphere should be endorsed; and

(2) the United States should work through the United Nations, the Organization of American States, and other multilateral organizations to determine the feasibility of such a force and should assist in the establishment of this force if it is found to be feasible.

SEC. 12. WEAPONS TRANSFERS TO INTERNATIONAL NARCOTICS TRAFFICKERS.

(a) HALTING WEAPONS TRANSFERS TO NARCOTICS TRAFFICKERS.—The Congress urges the President to seek agreement by the relevant foreign countries, especially the member countries of the North Atlantic Treaty Organization and the member countries of the Warsaw Pact, to join with the United State in taking the necessary steps to halt transfers of weapons to narcotics traffickers in Latin America.

(b) COORDINATION OF UNITED STATES EFFORTS TO TRACK ILLEGAL ARMS TRANSFERS.—The Congress urges the President to improve the coordination of United States Government efforts—

(1) to track the flow of weapons illegally from the United States and other countries to international narcotics traffickers, and

(2) to prevent such illegal shipments from the United States.

(c) INTERPOL.—The Congress calls upon the President to direct the United States representative to INTERPOL to urge that organization to study the feasibility of creating an international database on the flow of those types of weapons that are being acquired illegally by international narcotics traffickers.

(d) REPORT TO CONGRESS.—Not later than 6 months after the date of enactment of this Act, the President shall report to the Congress on the steps taken in accordance with this section.

SEC. 13. REWARDS FOR INFORMATION CONCERNING ACTS OF INTERNATIONAL TERRORISM.

(a) AMENDMENT.—Subject to subsection (b), section 36(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708(c)) is amended by striking out "$500,000" and inserting in lieu thereof "$2,000,000".

(b) AVOIDING DUPLICATIVE AMENDMENTS.—If the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, is enacted before this Act, and that Act makes the same amendment as is described in subsection (a), then subsection (a) shall not take effect, If, however, this Act is enacted before the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, and that Act would make the same amendment as is made by subsection (a), then that

amendment as proposed to be made by that Act shall not take effect.[10]

SEC. 14. WAIVER OF BUMPERS AMENDMENT.

(a) ASSISTANCE FOR CROP SUBSTITUTION ACTIVITIES.—During fiscal year 1990, the provisions described in subsection (b) do not apply with respect to assistance for crop substitution activities undertaken in furtherance of narcotics control objectives.

(b) BUMPERS AMENDMENT.—The provisions made inapplicable by subsection (a) are any provisions of the annual Foreign Operations, Export Financing, and Related Programs Appropriations Act that prohibit the use of funds made available to carry out part I of the Foreign Assistance Act of 1961 for activities in connection with the growth or production in a foreign country of an agricultural commodity for export which would compete with a similar commodity grown or produced in the United States.

SEC. 15.[11] PARTICIPATION IN FOREIGN POLICE ACTIONS. * * *

SEC. 16.[12] AUTHORIZATION OF APPROPRIATIONS FOR INTERNATIONAL NARCOTICS CONTROL ASSISTANCE. * * *

SEC. 17.[13] REVISIONS OF CERTAIN NARCOTICS-RELATED PROVISIONS OF THE FOREIGN ASSISTANCE ACT. * * *

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[10] The Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101–246; 104 Stat. 15), was enacted on February 16, 1990. See sec. 1001 in *Legislation on Foreign Relations Through 2004*, vol. II, sec. D.

[11] Sec. 15 amended sec. 481(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(c)).

[12] Sec. 16 amended sec. 482(a)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2292(a)(1)).

[13] Sec. 17 extensively amended sec. 481 of the Foreign Assistance Act of 1961. Sec. 17(h) made conforming amendments to secs. 802 and 805 of the Narcotics Control Trade Act. For text, see *Legislation on Foreign Relations Through 2004*, vol. III.

(7) International Narcotics Control Act of 1988

Title IV of Public Law 100–690 [Anti-Drug Abuse Act of 1988, H.R. 5210], 102 Stat. 4181 at 4261, approved November 18, 1988; amended by Public Law 102–583 [International Narcotics Control Act of 1992; H.R. 6187], 106 Stat. 4914, approved November 2, 1992; and by Public Law 103–447 [International Narcotics Control Corrections Act of 1994; H.R. 5246], 108 Stat. 4691, approved November 2, 1994

NOTE.—Section 6(e)(1) of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4933) provided the following:

"(e) REPEAL OF OBSOLETE PROVISIONS.—

"(1) 1988 DRUG ACT.—All sections of the International Narcotics Control Act of 1988 (which is title IV of the Anti-Drug Abuse Act of 1988) are repealed except for sections 4001, 4306, 4308, 4309, 4501, 4702, and 4804. Section 4501(b) of that Act is amended by striking out 'Section 4601 of this title' and inserting in lieu thereof 'Section 489(b) of the Foreign Assistance Act of 1961'.".

Subsequently, sec. 103(b) of the International Narcotics Control Corrections Act of 1994 (Public Law 103–447) repealed the remaining sections except for the title heading and sec. 4702, subsections (a) through (f).

AN ACT To prevent the manufacturing, distribution, and use of illegal drugs, and for other purposes.

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

SECTION 1.[1] SHORT TITLE.

This Act may be cited as the "Anti-Drug Abuse Act of 1988".

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TITLE IV—INTERNATIONAL NARCOTICS CONTROL

SEC. 4702.[2] RESTRICTIONS ON LAUNDERING OF UNITED STATES CURRENCY.

(a) FINDINGS.—The Congress finds that international currency transactions, especially in United States currency, that involve the proceeds of narcotics trafficking fuel trade in narcotics in the

[1] 21 U.S.C. 1501 note.
[2] 31 U.S.C. 5311 note.

United States and worldwide and consequently are a threat to the national security of the United States.

(b) PURPOSE.—The purpose of this section is to provide for international negotiations that would expand access to information on transactions involving large amounts of United States currency wherever those transactions occur worldwide.

(c) NEGOTIATIONS.—(1) The Secretary of the Treasury (hereinafter in this section referred to as the "Secretary") shall enter into negotiations with the appropriate financial supervisory agencies and other officials of any foreign country the financial institutions of which do business in United States currency. Highest priority shall be attached to countries whose financial institutions the Secretary determines, in consultation with the Attorney General and the Director of National Drug Control Policy, may be engaging in currency transactions involving the proceeds of international narcotics trafficking, particularly United States currency derived from drug sales in the United States.

(2) The purposes of negotiations under this subsection are—

(A) to reach one or more international agreements to ensure that foreign banks and other financial institutions maintain adequate records of large United States currency transactions, and

(B) to establish a mechanism whereby such records may be made available to United States law enforcement officials.

In carrying out such negotiations, the Secretary should seek to enter into and further cooperative efforts, voluntary information exchanges, the use of letters rogatory, and mutual legal assistance treaties.

(d) REPORTS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit an interim report to the Committee on Banking, Finance and Urban Affairs[3] of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on progress in the negotiations under subsection (c). Not later than 2 years after such enactment, the Secretary shall submit a final report to such Committees and the President on the outcome of those negotiations and shall identify, in consultation with the Attorney General and the Director of National Drug Control Policy, countries—

(1) with respect to which the Secretary determines there is evidence that the financial institutions in such countries are engaging in currency transactions involving the proceeds of international narcotics trafficking; and

(2) which have not reached agreement with United States authorities on a mechanism for exchanging adequate records on international currency transactions in connection with narcotics investigations and proceedings.

(e) AUTHORITY.—If after receiving the advice of the Secretary and in any case at the time of receipt of the Secretary's report, the Secretary determines that a foreign country—

(1) has jurisdiction over financial institutions that are substantially engaging in currency transactions that effect the

[3] Sec. 1(a)(2) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Banking, Finance and Urban Affairs of the House of Representatives shall be treated as referring to the Committee on Banking and Financial Services of the House of Representatives.

United States involving the proceeds of international narcotics trafficking;

(2) such country has not reached agreement on a mechanism for exchanging adequate records on international currency transactions in connection with narcotics investigations and proceedings; and

(3) such country is not negotiating in good faith to reach such an agreement,

the President shall impose appropriate penalties and sanctions, including temporarily or permanently—

(1) prohibiting such persons, institutions or other entities in such countries from participating in any United States dollar clearing or wire transfer system; and

(2) prohibiting such persons, institutions or entities in such countries from maintaining an account with any bank or other financial institution chartered under the laws of the United States or any State.

Any penalties or sanctions so imposed may be delayed or waived upon certification of the President to the Congress that it is in the national interest to do so. Financial institutions in such countries that maintain adequate records shall be exempt from such penalties and sanctions.

(f) DEFINITIONS.—For the purposes of this section—

(1) The term "United States currency" means Federal Reserve Notes and United States coins.

(2) The term "adequate records" means records of United States' currency transactions in excess of $10,000 including the identification of the person initiating the transaction, the person's business or occupation, and the account or accounts affected by the transaction, or other records of comparable effect.

(g)[4] * * * [Repealed—1994]

[4] Sec. 103(b) of Public Law 103–447 (108 Stat. 4693) repealed subsec. (g), which had previously read as follows:

"(g) SUNSET.—The authority given the President in subsection (e) shall expire on June 30, 1994.".

(8) International Narcotics Control Act of 1986

Title II of Public Law 99–570 [Anti-Drug Abuse Act of 1986, H.R. 5484], 100 Stat. 3207–60, approved October 27, 1986; amended by Public Law 100–690 [International Narcotics Control Act of 1988, H.R. 5210], 102 Stat. 4181, approved November 18, 1988; Public Law 102–583 [International Narcotics Control Act of 1992; H.R. 6187], 106 Stat. 4914, approved November 2, 1992; and by Public Law 103–447 [International Narcotics Control Corrections Act of 1994; H.R. 5246], 108 Stat. 4691, approved November 2, 1994

NOTE.—Section 6(e)(2) of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4933) provided the following:

"(e) REPEAL OF OBSOLETE PROVISIONS.— * * *

"(2) 1986 DRUG ACT.—All sections of the International Narcotics Control Act of 1986 (which is title II of the Anti-Drug Abuse Act of 1986) are repealed except for sections 2001, 2010, 2015, 2018, and 2029.".

Subsequently, sec. 103(c) of the International Narcotics Control Corrections Act of 1994 (Public Law 103–447) repealed the remaining sections except for the title heading and sec. 2018.

AN ACT To strengthen Federal efforts to encourage foreign cooperation in eradicating illicit drug crops and in halting international drug traffic, to improve enforcement of Federal drug laws and enhance interdiction of illicit drug shipments, to provide strong Federal leadership in establishing effective drug abuse prevention and education programs, to expand Federal support for drug abuse treatment and rehabilitation efforts, and for other purposes

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

SEC. 1.[1] SHORT TITLE.

This Act may be cited as the "Anti-Drug Abuse Act of 1986".

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TITLE II—INTERNATIONAL NARCOTICS CONTROL

SEC. 2001.[2] SHORT TITLE.

This title may be cited as the "International Narcotics Control Act of 1986".

[1] 21 U.S.C. 801 note.
[2] 22 U.S.C. 2151 note.

SEC. 2018.[3] MULTILATERAL DEVELOPMENT BANK ASSISTANCE FOR DRUG ERADICATION AND CROP SUBSTITUTION PROGRAMS.

(a) MDB ASSISTANCE FOR DEVELOPMENT AND IMPLEMENTATION OF DRUG ERADICATION PROGRAM.—The Secretary of the Treasury shall instruct the United States Executive Directors of the multilateral development banks to initiate discussions with other Directors of their respective banks and to propose that all possible assistance be provided to each major illicit drug producing country for the development and implementation of a drug eradication program, including technical assistance, assistance in conducting feasibility studies and economic analyses, and assistance for alternate economic activities.

(b) INCREASES IN MULTILATERAL DEVELOPMENT BANK LENDING FOR CROP SUBSTITUTION PROJECTS.—The Secretary of the Treasury shall instruct the United States Executive Directors of the multilateral development banks to initiate discussions with other Directors of their respective banks and to propose that each such bank increase the amount of lending by such bank for crop substitution programs which will provide an economic alternative for the cultivation or production of illicit narcotic drugs or other controlled substances in major illicit drug producing countries, to the extent such countries develop and maintain adequate drug eradication programs.

(c) NATIONAL ADVISORY COUNCIL REPORT.—The Secretary of the Treasury shall include in the annual report to the Congress by the National Advisory Council on International Monetary and Financial Policies a detailed accounting of the manner in which and the extent to which the provisions of this section have been carried out.[4]

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

(1) MULTILATERAL DEVELOPMENT BANK.—The term "multilateral development bank" means the International Bank for Reconstruction and Development, the International Development Association, the Inter-American Development Bank, the African Development Bank, and the Asian Development Bank.

(2) MAJOR ILLICIT DRUG PRODUCING COUNTRY.—The term "major illicit drug producing country" has the meaning provided in section 481(i)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 229(i)(2)).

(3) NARCOTIC DRUG AND CONTROLLED SUBSTANCE.—The terms "narcotic drug" and "controlled substance" have the meanings given to such terms in section 102 of the Controlled Substances Act (21 U.S.C. 802).

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[3] 22 U.S.C. 2291 note.

[4] Sec. 407(b) and (c) of the International Development and Finance Act of 1989 (Public Law 101–240; 103 Stat. 2504) required the Secretary of the Treasury to include in this report a discussion of any multilateral development bank evaluation of those countries determined to be "major producers, processors, traffickers, or exporters of illegal drugs to the United States" applying for loans to reduce their debt and debt burden.

(9) Export-Import Bank Act of 1945, as amended—Provisions Governing Foreign Assistance Act Funds In Counter-Narcotics

Partial text of Public Law 79–173 [H.R. 3771], 59 Stat. 526, approved July 31, 1945, as amended

AN ACT To provide for increasing the lending authority of the Export-Import Bank of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Export-Import Bank Act of 1945."

SEC. 2.[1] (a)(1) There is hereby created a corporation with the name Export-Import Bank of the United States which shall be an agency of the United States of America. * * *

(b) * * *

* * * * * * *

(6)(A) The Bank shall not guarantee, insure, or extend credit, or participate in an extension of credit in connection with any credit sale of defense articles and defense services to any country.

(B) Subparagraph (A) shall not apply to any sale of defense articles or services if—

(i) the Bank is requested to provide a guarantee or insurance for the sale;

(ii) the President determines that the defense articles or services are being sold primarily for anti-narcotics purposes;

(iii) section 490(e) of the Foreign Assistance Act of 1961 does not apply with respect to the purchasing country; and

(iv) the President determines, in accordance with subparagraph (C), that the sale is in the national interest of the United States; and

(v) the Bank determines that, notwithstanding the provision of a guarantee or insurance for the sale, not more than 5 percent of the guarantee and insurance authority available to the Bank in any fiscal year will be used by the Bank to support the sale of defense articles or services.

(C) In determining whether a sale of defense articles or services would be in the national interest of the United States, the President shall take into account whether the sale would—

(i) be consistent with the anti-narcotics policy of the United States;

(ii) involve the end use of a defense article or service in a major illicit drug producing or major drug-transit country (as defined in section 481(e) of the Foreign Assistance Act of 1961); and

[1] 12 U.S.C. 635. For full text of this Act, see *Legislation on Foreign Relations Through 2004*, vol. III.

(iii) be made to a country with a democratic form of government.

* * * * * * *

(10) National Drug Control Program

Executive Order 12880, November 16, 1993, 58 F.R. 60989, 21 U.S.C. 1703 note; amended by Executive Order 13008, June 3, 1996, 61 F.R. 28721

The Office of National Drug Control Policy has the lead responsibility within the Executive Office of the President to establish policies, priorities, and objectives for the Nation's drug control program, with the goal of reducing the production, availability, and use of illegal drugs. All lawful and reasonable means must be used to ensure that the United States has a comprehensive and effective National Drug Control Strategy. Therefore, by the authority bested in me as President by the Constitution and the laws of the United States of America, including the National Narcotics Leadership Act of 1988, as amended (21 U.S.C. 1501 *et seq.*), and in order to provide for the effective management of the drug abuse policies of the United States, it is hereby ordered as follows:

Sec. 1. GENERAL PROVISIONS. (a) Because the United States considers the operations of international criminal narcotics syndicates as a national security threat requiring an extraordinary and coordinated response by civilian and military agencies involved in national security, the Director of the Office of National Drug Control Policy (Director), in his role as the principal adviser to the National Security Council on national drug control policy (50 U.S.C. 402(f)), shall provide drug policy guidance and direction in the development of related national security programs.

(b) The Director shall provide oversight and direction for all international counternarcotics policy development and implementation, in coordination with other concerned Cabinet members, as appropriate.

(c) An Interagency Working Group (IWG) on international counternarcotics policy, chaired by the Office of National Drug Control Policy,[1] shall develop and ensure coordinated implementation of an international counternarcotics policy. The IWG shall report its activities and differences of views among agencies to the Director for review, mediation, and resolution with concerned Cabinet members, and if necessary, by the President.

(d) A coordinator for drug interdiction shall be designated by the Director to ensure that assets dedicated by Federal drug program agencies for interdiction are sufficient and that their use is properly integrated and optimized. The coordinator shall ensure that interdiction efforts and priorities are consistent with overall U.S. international counternarcotics policy.

(e) The Director shall examine the number and structure of command/control and drug intelligence centers operated by drug control program agencies involved in international counter-narcotics

[1] Executive Order 13008 (June 3, 1996; 61 F.R. 28721) struck out "Department of State" and inserted in lieu thereof "Office of National Drug Control Policy".

and suggest improvements to the current structure for consideration by the President and concerned members of the Cabinet.

(f) The Director, utilizing the services of the Drugs and Crime Data Center and Department of Justice Clearinghouse, shall assist in coordinating and enhancing the dissemination of statistics and studies relating to anti-drug abuse policy.

(g) the Director shall provide advice to agencies regarding ways to achieve efficiencies in spending and improvements to interagency cooperation that could enhance the delivery of drug control treatment and prevention services to the public. The Director may request agencies to provide studies, information, and analyses in support of this order.

Sec. 2. GOALS, DIRECTION, DUTIES AND RESPONSIBILITIES WITH RESPECT TO THE NATIONAL DRUG CONTROL PROGRAM. (a) *Budget Matters.* (1) In addition to the budgetary authorities and responsibilities provided to the Director by statute, 21 U.S.C. 1502, for those agency budget requests that are not certified as adequate to implement the objectives of the National Drug Control Strategy, the Director shall include in such certifications initiatives or funding levels that would make such requests adequate.

(2) The Director shall provide, by July 1 of each year, budget recommendations to the heads of departments and agencies with responsibilities under the National Drug Control Program. The recommendations shall apply to the second following fiscal year and address funding priorities developed in the annual National Drug Control Strategy.

(b) *Measurement of National Drug Control Strategy Outcomes.* (1) The National Drug Control Strategy shall include long-range goals for reducing drug use and the consequences of drug use in the United States, including burdens on hospital emergency rooms, drug use among arrestees, the extent of drug-related crime, high school dropout rates, the number of infants exposed annually to illicit drugs in utero, national drug abuse treatment capacity, and the annual national health care costs of drug use.

(2) The National Drug Control Strategy shall also include an assessment of the quality of techniques and instruments to measure current drug use and supply and demand reduction activities, and the adequacy of the coverage of existing national drug use instruments and techniques to measure the total illicit drug user population and groups at-risk for drug use.

(3) The Director shall coordinate an effort among the relevant drug control program agencies to assess the quality, access, management, effectiveness, and standards of accountability of drug abuse treatment, prevention, education, and other demand reduction activities.

(c) *Provision of Reports.* To the extent permitted by law, heads of departments and agencies with responsibilities under the National Drug Control Program shall make available to the Office of National Drug Control Policy, appropriate statistics, studies, and reports, pertaining to Federal drug abuse control.

(11) President's Drug Policy Council [1]

Executive Order 12992, March 15, 1996, 61 F.R. 11287, 21 U.S.C. 1708 note; amended by Executive Order 13023, November 6, 1996, 61 F.R. 57767; and by Executive Order 13284, January 23, 2003, 68 F.R. 4075

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, it is hereby ordered as follows:

Section 1. *Establishment.* There is established the President's Drug Policy Council ("Council").[1]

Sec. 2.[2] *Membership.* The Council shall comprise the:

(a) President, who shall serve as Chairman of the Council;
(b) Vice-President;
(c) Secretary of State;
(d) Secretary of the Treasury;
(e) Secretary of Defense;
(f) Attorney General;
(g) Secretary of the Interior;
(h) Secretary of Agriculture;
(i) Secretary of Health and Human Services;
(j) Secretary of Housing and Urban Development;
(k) Secretary of Transportation;
(l) Secretary of Education;
(m) Secretary of Veterans Affairs;
(n)[3] Secretary of Homeland Security;
(o) Representative of the United States of America to the United Nations;
(p) Director of the Office of Management and Budget;
(q) Chief of Staff to the President;
(r) Director of National Drug Control Policy;
(s) Director of Central Intelligence;
(t) Assistant to the President for National Security Affairs;
(u) Counsel to the President;
(v) Chairman, Joint Chiefs of Staff;
(w) National Security Advisor to the Vice President; and
(x) Assistant to the President for Domestic Policy.

As applicable, the Council shall also comprise such other officials of the departments and agencies as the President may, from time to time, designate.

Sec. 3. *Meetings of the Council.* The President, or upon his direction, the Vice President, may convene meetings of the Council. The President shall preside over meetings of the Council, provided that

[1] Executive Order 13023 (November 6, 1996; 61 F.R. 57767) renamed the council from "President's Council on Counter-Narcotics".
[2] Sec. 3 of Executive Order 13023 (November 6, 1996; 61 F.R. 57767) amended and restated sec. 2.
[3] Sec. 8 of Executive Order 13284 (January 23, 2003; 68 F.R. 4076) inserted subsec. (n), and relettered previous subsec. (n) and those that follow.

in his absence, the Vice President will preside. The Council will meet at least quarterly.

Sec. 4. *Functions.* (a) The functions of the Council are to advise and assist the President in: (1) providing direction and oversight for the national drug control strategy, including relating drug control policy to other national security interests and establishing priorities; and (2) ensuring coordination among departments and agencies concerning implementation of the President's national drug control strategy.

(b) The Director of National Drug Control Policy will continue to be the senior drug control policy official in the executive branch and the President's chief drug control policy spokesman.

(c) In matters affecting national security interests, the Director of National Drug Control Policy shall work in conjunction with the Assistant to the President for National Security Affairs.

Sec. 5. *Administration.* (a) The Council may utilize established or ad hoc committees, task forces, or interagency groups chaired by the Director of National Drug Control Policy or his representative, in carrying out its functions under this order.

(b) The staff of the Office of National Drug Control Policy, in coordination with the staffs of the Vice President and the Assistant to the President for National Security Affairs, shall act as staff for the Council.

(c) All executive departments and agencies shall cooperate with the Council and provide such assistance, information, and advice as the Council may request, to the extent permitted by law.

i. Security Assistance and Arms Sales Legislation

(1) Security Assistance Act of 2002

Division B of Public Law 107–228 [Foreign Relations Authorization Act, 2003; H.R. 1646], 116 Stat. 1350 at 1425, approved September 30, 2002

AN ACT to authorize appropriations for the Department of State for fiscal year 2003, to authorize appropriations under the Arms Export Control Act and the Foreign Assistance Act of 1961 for security assistance for fiscal year 2003, and for other purposes.

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

* * * * * * *

DIVISION B—SECURITY ASSISTANCE ACT OF 2002

TITLE X—GENERAL PROVISIONS

SEC. 1001.[1] SHORT TITLE.

This division may be cited as the "Security Assistance Act of 2002".

SEC. 1002.[1] DEFINITIONS.

In this division:

(1) DEFENSE ARTICLE.—The term "defense article" has the meaning given the term in section 47(3) of the Arms Export Control Act (22 U.S.C. 2794 note).

(2) DEFENSE SERVICE.—The term "defense service" has the meaning given the term in section 47(4) of the Arms Export Control Act (22 U.S.C. 2794 note).

(3) EXCESS DEFENSE ARTICLE.—The term "excess defense article" has the meaning given the term in section 644(g) of the Foreign Assistance Act of 1961 (22 U.S.C. 2403(g)).

TITLE XI—VERIFICATION OF ARMS CONTROL AND NONPROLIFERATION AGREEMENTS

SEC. 1101. VERIFICATION AND COMPLIANCE BUREAU PERSONNEL.

(a) IN GENERAL.—Of the amount authorized to be appropriated by section 111(a)(1)(A), $14,000,000 is authorized to be available for the Bureau of Verification and Compliance of the Department of State for Bureau-administered activities, including the Key Verification Assets Fund and to upgrade Bureau spaces for certification as a Sensitive Compartmented Information Facility (SCIF).

(b) ADDITIONAL PERSONNEL.—In addition to the amount made available under subsection (a), $1,800,000 is authorized to be available for the fiscal year 2003 from the Department's American Salaries Account, for the purpose of hiring new personnel to carry out

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

the Bureau's responsibilities, as set forth in section 112 of the Arms Export Control and Nonproliferation Act of 1999 (113 Stat. 1501A–486), as enacted into law by section 1000(a)(7) of Public Law 106–113, including the assignment of one full-time person to the Bureau to manage the document control, tracking, and printing requirements of the Bureau's operation in a SCIF.

SEC. 1102. KEY VERIFICATION ASSETS FUND.

Of the total amount made available to the Department for fiscal year 2003, $7,000,000 is authorized to be available within the Verification and Compliance Bureau's account to carry out section 1111 of the Arms Control and Nonproliferation Act of 1999 (113 Stat. 1501A–486), as enacted into law by section 1000(a)(7) of Public Law 106–113.

SEC. 1103. REVISED VERIFICATION AND COMPLIANCE REPORTING REQUIREMENTS.

Section 403(a) of the Arms Control and Disarmament Act (22 U.S.C. 2593a(a)) is amended * * *[2]

TITLE XII—MILITARY AND RELATED ASSISTANCE

Subtitle A—Foreign Military Sales and Financing Authorities

SEC. 1201. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the President for grant assistance under section 23 of the Arms Export Control Act (22 U.S.C. 2763) and for the subsidy cost, as defined in section 502(5) of the Federal Credit Reform Act of 1990, of direct loans under such section $4,107,200,000 for fiscal year 2003.

SEC. 1202. RELATIONSHIP OF FOREIGN MILITARY SALES TO UNITED STATES NONPROLIFERATION INTERESTS. * * *[3]

SEC. 1203. OFFICIAL RECEPTION AND REPRESENTATION EXPENSES. * * *[3]

SEC. 1204. ARMS EXPORT CONTROL ACT PROHIBITION ON TRANSACTIONS WITH COUNTRIES THAT HAVE REPEATEDLY PROVIDED SUPPORT FOR ACTS OF INTERNATIONAL TERRORISM. * * *[3]

SEC. 1205. CONGRESSIONAL NOTIFICATION OF SMALL ARMS AND LIGHT WEAPONS LICENSE APPROVALS; REPORTS.

(a)–(c) * * *[3]

(d) REPORT ON ARMS BROKERING.—Not later than June 30, 2003, the Secretary shall submit a report to the appropriate congressional committees on activities of registered arms brokers, which shall discuss—

(1) the role of such brokers in the United States and other countries;

(2) United States law, regulations, and policy regarding arms brokers;

(3) violations of the Arms Export Control Act;

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[2] For the Arms Control and Disarmament Act, see *Legislation on Foreign Relations Through 2004*, vol. II.

[3] Secs. 1202 through 1205 amend the Arms Export Control Act and the Foreign Assistance Act of 1961. See *Legislation on Foreign Relations Through 2004*, vol. I–A.

(4) United States resources and personnel devoted to the monitoring of arms brokers;

(5) any needed changes in law, regulation, policy, or resources; and

(6) any implications for the regulation of arms brokers in other countries.

SEC. 1206.[4] TREATMENT OF TAIWAN RELATING TO TRANSFERS OF DEFENSE ARTICLES AND DEFENSE SERVICES.

Notwithstanding any other provision of law, for purposes of the transfer or possible transfer of defense articles or defense services under the Arms Export Control Act (22 U.S.C. 2751 et seq.), the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), or any other provision of law, Taiwan shall be treated as though it were designated a major non-NATO ally (as defined in section 644(q) of the Foreign Assistance Act of 1961 (22 U.S.C. 2403(q)).

Subtitle B—International Military Education and Training

SEC. 1211. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the President $85,000,000 for fiscal year 2003 to carry out chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.; relating to international military education and training).

SEC. 1212. HUMAN RIGHTS VIOLATIONS.

(a) ANNUAL REPORT.—Chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.) is amended by adding at the end the following new section: * * *[5]

(b) RECORDS REGARDING FOREIGN PARTICIPANTS.—Section 548 of the Foreign Assistance Act of 1961 (22 U.S.C. 2347g) is amended—

* * *

SEC. 1213. PARTICIPATION IN POST-UNDERGRADUATE FLYING TRAINING AND TACTICAL LEADERSHIP PROGRAMS.

Section 544 of the Foreign Assistance Act of 1961 (22 U.S.C. 2347c) is amended by adding at the end the following new subsection: * * *

Subtitle C—Assistance for Select Countries

SEC. 1221. ASSISTANCE FOR ISRAEL AND EGYPT.

(a) AUTHORIZATION OF APPROPRIATIONS FOR ISRAEL.—Section 513 of the Security Assistance Act of 2000 (Public Law 106–280) is amended—* * *[6]

(b) AUTHORIZATION OF APPROPRIATIONS FOR EGYPT.—Section 514 of the Security Assistance Act of 2000 (Public Law 106–280) is amended—* * *[6]

SEC. 1222. SECURITY ASSISTANCE FOR GREECE AND TURKEY.

(a) IN GENERAL.—Of the amount made available for the fiscal year 2003 to carry out chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.)—

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[4] 22 U.S.C. 2321k note.

[5] Sec. 1212(a) added a new sec. 549 to the Foreign Assistance Act of 1961 (22 U.S.C. 2347h), relating to human rights reporting.

[6] For amended text, see pages 454, 456.

(1) $1,120,000 for fiscal year 2003 is authorized to be available for Greece; and

(2) $2,800,000 for fiscal year 2003 is authorized to be available for Turkey.

(b) USE FOR PROFESSIONAL MILITARY EDUCATION.—Of the amounts available under paragraphs (1) and (2) of subsection (a) for fiscal year 2003, $500,000 of each such amount should be available for purposes of professional military education.

(c) USE FOR JOINT TRAINING.—It is the sense of Congress that, to the maximum extent practicable, amounts available under subsection (a) that are used in accordance with subsection (b) should be used for joint training of Greek and Turkish officers.

(d) REPEAL.—Effective October 1, 2002, section 512 of the Security Assistance Act of 2000 (Public Law 106–280; 114 Stat. 856) is repealed.

SEC. 1223. SECURITY ASSISTANCE FOR CERTAIN OTHER COUNTRIES.

(a) FMF FOR CERTAIN OTHER COUNTRIES.—Of the total amount made available for the fiscal year 2003 under section 23 of the Arms Export Control Act (22 U.S.C. 2763), the following amounts are authorized to be available on a grant basis for the following countries:

(1) THE BALTIC STATES.—For all of the Baltic states of Estonia, Latvia, and Lithuania, $22,000,000.

(2) BULGARIA.—For Bulgaria, $11,000,000.

(3) THE CZECH REPUBLIC.—For the Czech Republic, $11,000,000.

(4) GEORGIA.—For Georgia, $7,000,000.

(5) HUNGARY.—For Hungary, $11,000,000.

(6) JORDAN.—For Jordan, $198,000,000.

(7) MALTA.—For Malta, $1,150,000.

(8) THE PHILIPPINES.—For the Philippines, $25,000,000.

(9) POLAND.—For Poland, $16,000,000.

(10) ROMANIA.—For Romania, $12,000,000.

(11) SLOVAKIA.— For Slovakia, $9,000,000.

(12) SLOVENIA.—For Slovenia, $5,000,000.

(b) IMET.—Of the amount made available for the fiscal year 2003 to carry out chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.), the following amounts are authorized to be available for the following countries:

(1) THE BALTIC STATES.—For all of the Baltic states of Estonia, Latvia, and Lithuania, $3,300,000.

(2) BULGARIA.—For Bulgaria, $1,370,000.

(3) THE CZECH REPUBLIC.—For the Czech Republic, $1,900,000.

(4) GEORGIA.—For Georgia, $1,200,000.

(5) HUNGARY.—For Hungary, $1,900,000.

(6) JORDAN.—For Jordan, $4,000,000.

(7) MALTA.—For Malta, $350,000.

(8) THE PHILIPPINES.—For the Philippines, $2,000,000.

(9) POLAND.—For Poland, $2,000,000.

(10) ROMANIA.—For Romania, $1,500,000.

(11) SLOVAKIA.—For Slovakia, $950,000.

(12) SLOVENIA.—For Slovenia, $950,000.

(c) REPEALS.—Sections 511 (a) and (b) and 515 of the Security Assistance Act of 2000 are repealed.

SEC. 1224.[7] ASSISTANCE TO LEBANON.

(a) PROHIBITION.—Notwithstanding any other provision of law, $10,000,000 of the amounts made available for fiscal year 2003 or any subsequent fiscal year that are allocated for assistance to Lebanon under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.; relating to the economic support fund) may not be obligated unless and until the President certifies to the appropriate congressional committees that—

(1) the armed forces of Lebanon have been deployed to the internationally recognized border between Lebanon and Israel; and

(2) the Government of Lebanon is effectively asserting its authority in the area in which such armed forces have been deployed.

(b) REQUIREMENT RELATING TO FUNDS WITHHELD.—Notwithstanding any other provision of law, any funds withheld pursuant to subsection (a) may not be programmed in order to be used for a purpose other than for assistance to Lebanon until the last month of the fiscal year in which the authority to obligate such funds lapses.

Subtitle D—Excess Defense Article and Drawdown Authorities

SEC. 1231. EXCESS DEFENSE ARTICLES FOR CERTAIN COUNTRIES.

(a) AUTHORITY.—Notwithstanding section 516(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(e)), during the fiscal year 2003 funds available to the Department of Defense may be expended for crating, packing, handling, and transportation of excess defense articles transferred under the authority of section 516 of such Act to Albania, Bulgaria, Croatia, Estonia, Former Yugoslavia Republic of Macedonia, Georgia, India, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, Mongolia, Pakistan, Romania, Slovakia, Slovenia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the authority provided under this section should be utilized only for those countries demonstrating a genuine commitment to democracy and human rights.

SEC. 1232. ANNUAL LISTING OF POSSIBLE EXCESS DEFENSE ARTICLES.

Section 25(a) of the Arms Export Control Act (22 U.S.C. 2765(a)) is amended—* * *

SEC. 1233. LEASES OF DEFENSE ARTICLES FOR FOREIGN COUNTRIES AND INTERNATIONAL ORGANIZATIONS.

Section 61(b) of the Arms Export Control Act (22 U.S.C. 2796(b)), is amended—* * *

[7] 22 U.S.C. 2346 note.

SEC. 1234. PRIORITY WITH RESPECT TO TRANSFER OF EXCESS DEFENSE ARTICLES.

Section 516(c)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(c)(2)) is amended * * *

Subtitle E—Other Political-Military Assistance

SEC. 1241. DESTRUCTION OF SURPLUS WEAPONS STOCKPILES.

Of the funds authorized to be appropriated to the President for fiscal year 2003 to carry out chapters 1 and 10 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), relating to development assistance, up to $10,000,000 is authorized to be made available for the destruction of surplus stockpiles of small arms, light weapons, and other munitions.

Subtitle F—Antiterrorism Assistance

SEC. 1251. AUTHORIZATION OF APPROPRIATIONS.

Section 574(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa–4(a)) is amended by striking "and $73,000,000 for fiscal year 2002" and inserting ", $73,000,000 for fiscal year 2002, and $64,200,000 for fiscal year 2003".

Subtitle G—Other Matters

SEC. 1261. ADDITIONS TO UNITED STATES WAR RESERVE STOCKPILES FOR ALLIES.

Section 514(b)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321h(b)(2)) is amended to read as follows: * * *

SEC. 1262. REVISED MILITARY ASSISTANCE REPORTING REQUIREMENTS.

(a) EXCEPTION FOR CERTAIN COUNTRIES.—Section 656(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2416(a)) is amended—* * *

(b) ANNUAL MILITARY ASSISTANCE REPORTS.—Section 655 of the Foreign Assistance Act of 1961 (22 U.S.C. 2415) is amended—* * *

(c) QUARTERLY REPORTS ON GOVERNMENT-TO-GOVERNMENT ARMS EXPORTS.—Section 36(a) of the Arms Export Control Act (22 U.S.C. 2776(a)) is amended—* * *

SEC. 1263.[8] CONSULTATION WITH CONGRESS WITH REGARD TO TAIWAN.

Beginning 180 days after the date of enactment of this Act, and every 180 days thereafter, the President shall provide detailed briefings to and consult with the appropriate congressional committees regarding the United States security assistance to Taiwan, including the provision of defense articles and defense services.

TITLE XIII—NONPROLIFERATION AND EXPORT CONTROL ASSISTANCE

Subtitle A—General Provisions

SEC. 1301. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—Section 585 of the Foreign Assistance Act of 1961 (22 U.S.C. 2349bb–4) is amended—* * *

[8] 22 U.S.C. 3302 note.

(b) SUBALLOCATIONS.—Of the amount authorized to be appropriated to the President for fiscal year 2003 by section 585 of the Foreign Assistance Act of 1961 (22 U.S.C. 2349bb–4)—

(1) $2,000,000 is authorized to be available for such fiscal year for the purpose of carrying out section 584 of the Foreign Assistance Act of 1961, as added by section 1303 of this Act; and

(2) $65,000,000 for fiscal year 2003 are authorized to be available for science and technology centers in the independent states of the former Soviet Union.

(c) CONFORMING AMENDMENT.—Section 302 of the Security Assistance Act of 2000 (Public Law 106–280; 114 Stat. 853) is repealed.

(d) FURTHER AUTHORIZATION.—There is authorized to be appropriated under "Nonproliferation, Anti-terrorism, Demining, and Related Programs" $382,400,000 for fiscal year 2003.

SEC. 1302.[9] NONPROLIFERATION TECHNOLOGY ACQUISITION PROGRAMS FOR FRIENDLY FOREIGN COUNTRIES.

(a) IN GENERAL.—For the purpose of enhancing the nonproliferation and export control capabilities of friendly countries, of the amount authorized to be appropriated for fiscal year 2003 by section 585 of the Foreign Assistance Act of 1961 (22 U.S.C. 2349bb et seq.), the Secretary is authorized to make available—

(1) $5,000,000 for the procurement and provision of nuclear, chemical, and biological detection systems, including spectroscopic and pulse echo technologies; and

(2) $10,000,000 for the procurement and provision of x-ray systems capable of imaging sea-cargo containers.

(b) REPORTS ON TRAINING PROGRAM.—

(1) INITIAL REPORT.—Not later than March 31, 2003, the Secretary shall submit a report to the appropriate congressional committees setting forth his plans and budget for a multiyear training program to train foreign personnel in the utilization of the systems described in subsection (a).

(2) SUBSEQUENT REPORTS.—Not later than March 31, 2004, and annually thereafter for the next three years, the Secretary shall submit a report to the appropriate congressional committees describing the progress, current status, and budget of that training program and of the provision of those systems.

SEC. 1303. INTERNATIONAL NONPROLIFERATION AND EXPORT CONTROL TRAINING.

Chapter 9 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2349bb et seq.) is amended—

(1) by redesignating sections 584 and 585 as sections 585 and 586, respectively; and

(2) by inserting after section 583 the following:

[9] 22 U.S.C. 2349bb note.
[10] 22 U.S.C. 2349bb–2a note.

"SEC. 584.[10] INTERNATIONAL NONPROLIFERATION EXPORT CONTROL TRAINING. * * *".

SEC. 1304. RELOCATION OF SCIENTISTS.

(a) REINSTATEMENT OF CLASSIFICATION AUTHORITY.—Section 4 of the Soviet Scientists Immigration Act of 1992 (Public Law 102-509; 106 Stat. 3316; 8 U.S.C. 1153 note) is amended by striking subsection (d) and inserting the following: * * *[11]

(b) LIMITATION ON NUMBER OF SCIENTISTS ELIGIBLE FOR VISAS UNDER AUTHORITY.—Section 4(c) of such Act (8 U.S.C. 1153 note) is amended * * *

(c) LIMITATION ON ELIGIBILITY.—Section 4(a) of that Act (8 U.S.C. 1153 note) is amended by adding at the end the following new sentence: * * *

(d)[12] CONSULTATION REQUIREMENT.—The Attorney General shall consult with the Secretary, the Secretary of Defense, the Secretary of Energy, and the heads of other appropriate agencies of the United States regarding—

(1) previous experience in implementing the Soviet Scientists Immigration Act of 1992; and

(2) any changes that those officials would recommend in the regulations prescribed under that Act.

SEC. 1305. INTERNATIONAL ATOMIC ENERGY AGENCY REGULAR BUDGET ASSESSMENTS AND VOLUNTARY CONTRIBUTIONS.

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

(1) The Department has concluded that the International Atomic Energy Agency (in this section referred to as the "IAEA") is a critical and effective instrument for verifying compliance with international nuclear nonproliferation agreements, and that it serves as an essential barrier to the spread of nuclear weapons.

(2) The IAEA furthers United States national security objectives by helping to prevent the proliferation of nuclear weapons material, especially through its work on effective verification and safeguards measures.

(3) The IAEA can also perform a critical role in monitoring and verifying aspects of nuclear weapons reduction agreements between nuclear weapons states.

(4) The IAEA has adopted a multifaceted action plan, to be funded by voluntary contributions, to address the threats posed by radioactive sources that could be used in a radiological weapon and will be the leading international agency in this effort.

(5) As the IAEA has negotiated and developed more effective verification and safeguards measures, it has experienced significant real growth in its mission, especially in the vital area of nuclear safeguards inspections.

(6) Nearly two decades of zero budget growth have affected the ability of the IAEA to carry out its mission and to hire and

[11] For text, see *Legislation on Foreign Relations Through 2004*, vol. II.
[12] 8 U.S.C. 1153 note.

retain the most qualified inspectors and managers, as evidenced in the decreasing proportion of such personnel who hold doctorate degrees.

(7) Increased voluntary contributions by the United States will be needed if the IAEA is to increase its safeguards activities and also to implement its action plan to address the worldwide risks posed by lost or poorly secured radioactive sources.

(8) Although voluntary contributions by the United States lessen the IAEA's budgetary constraints, they cannot readily be used for the long-term capital investments or permanent staff increases necessary to an effective IAEA safeguards regime.

(9) The recent United States decision to accept a 25 percent IAEA regular budget assessment was based upon a correct interpretation of existing law. It was not the intent of Congress that the United States contributions to all United Nations-related organizations and activities be reduced pursuant to the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (as enacted into law by section 1000(a)(7) of Public Law 106–113; 113 Stat. 1501A–405 et seq.), which sets 22 percent assessment rates as benchmarks for the general United Nations budget, the Food and Agricultural Organization, the World Health Organization, and the International Labor Organization. Rather, contributions for an important and effective agency such as the IAEA should be maintained at levels commensurate with the criticality of its mission.

(10) The Secretary should negotiate a gradual and sustained increase in the regular budget of the International Atomic Energy Agency, which should begin with the 2004 budget.

(b) AUTHORIZATION OF APPROPRIATIONS.—Of the funds authorized to be appropriated for Nonproliferation, Anti-terrorism, Demining, and Related Programs there is authorized to be appropriated $60,000,000 for fiscal year 2003 for a United States voluntary contribution to the International Atomic Energy Agency, including for the purpose of implementing the Protection Against Nuclear Terrorism program adopted by the International Atomic Energy Agency Board of Governors in March 2002.

(a) REPORTS ON PROLIFERATION TO IRAN.—Section 2 of the Iran Nonproliferation Act of 2000 (Public Law 106–178; 114 Stat. 39; 50 U.S.C. 1701 note) is amended * * *

(b) DETERMINATION EXEMPTING FOREIGN PERSONS FROM CERTAIN MEASURES UNDER THE ACT.—Section 5(a)(2) of such Act is amended * * *

SEC. 1307. AMENDMENTS TO THE NORTH KOREA THREAT REDUCTION ACT OF 1999.[14]

(a) RESTRICTIONS.—Section 822(a) of the North Korea Threat Reduction Act of 1999 (subtitle B of title VIII of division A of H.R. 3427, as enacted into law by section 1000(a)(7) of Public Law 106–113; appendix G; 113 Stat. 1501A–472) is amended * * *

[13] For text, see *Legislation on Foreign Relations Through 2004*, vol. II.
[14] For text, see *Legislation on Foreign Relations Through 2004*, vol. II.

(b) SPECIFIED NUCLEAR ITEM DEFINED.—Section 823 of the North Korea Threat Reduction Act of 1999 is amended * * *

SEC. 1308.[15] ANNUAL REPORTS ON THE PROLIFERATION OF MISSILES AND ESSENTIAL COMPONENTS OF NUCLEAR, BIOLOGICAL, CHEMICAL, AND RADIOLOGICAL WEAPONS.

(a) REPORT.—Not later than March 1, 2003, and annually thereafter, the President shall transmit to the designated congressional committees an annual report on the transfer by any country of weapons, technology, components, or materials that can be used to deliver, manufacture (including research and experimentation), or weaponize nuclear, biological, chemical or radiological weapons (in this section referred to as "NBC weapons") to any country other than a country referred to in subsection (d) that is seeking to possess or otherwise acquire such weapons, technology, or materials, or other system that the Secretary or the Secretary of Defense has reason to believe could be used to develop, acquire, or deliver NBC weapons.

(b) MATTERS TO BE INCLUDED.—Each such report shall include—

(1) the transfer of all aircraft, cruise missiles, artillery weapons, unguided rockets and multiple rocket systems, and related bombs, shells, warheads and other weaponization technology and materials that the Secretary or the Secretary of Defense has reason to believe may be intended for the delivery of NBC weapons;

(2) international transfers of MTCR equipment or technology to any country that is seeking to acquire such equipment or any other system that the Secretary or the Secretary of Defense has reason to believe may be used to deliver NBC weapons; and

(3) the transfer of technology, test equipment, radioactive materials, feedstocks and cultures, and all other specialized materials that the Secretary or the Secretary of Defense has reason to believe could be used to manufacture NBC weapons.

(c) CONTENT OF REPORT.—Each such report shall include the following with respect to preceding calendar year:

(1) The status of missile, aircraft, and other NBC weapons delivery and weaponization programs in any such country, including efforts by such country or by any subnational group to acquire MTCR-controlled equipment, NBC-capable aircraft, or any other weapon or major weapon component which may be utilized in the delivery of NBC weapons, whose primary use is the delivery of NBC weapons, or that the Secretary or the Secretary of Defense has reason to believe could be used to deliver NBC weapons.

(2) The status of NBC weapons development, acquisition, manufacture, stockpiling, and deployment programs in any such country, including efforts by such country or by any subnational group to acquire essential test equipment, manufacturing equipment and technology, weaponization equipment and technology, and radioactive material, feedstocks or components of feedstocks, and biological cultures and toxins.

[15] 50 U.S.C. 2368.

(3) A description of assistance provided by any person or government, after the date of the enactment of this Act, to any such country or subnational group in the acquisition or development of—

(A) NBC weapons;

(B) missile systems, as defined in the MTCR or that the Secretary or the Secretary of Defense has reason to believe may be used to deliver NBC weapons; and

(C) aircraft and other delivery systems and weapons that the Secretary or the Secretary of Defense has reason to believe could be used to deliver NBC weapons.

(4) A listing of those persons and countries that continue to provide such equipment or technology described in paragraph (3) to any country or subnational group as of the date of submission of the report, including the extent to which foreign persons and countries were found to have knowingly and materially assisted such programs.

(5) A description of the use of, or substantial preparations to use, the equipment of technology described in paragraph (3) by any foreign country or subnational group.

(6) A description of the diplomatic measures that the United States, and that other adherents to the MTCR and other arrangements affecting the acquisition and delivery of NBC weapons, have made with respect to activities and private persons and governments suspected of violating the MTCR and such other arrangements.

(7) An analysis of the effectiveness of the regulatory and enforcement regimes of the United States and other countries that adhere to the MTCR and other arrangements affecting the acquisition and delivery of NBC weapons in controlling the export of MTCR and other NBC weapons and delivery system equipment or technology.

(8) A summary of advisory opinions issued under section 11B(b)(4) of the Export Administration Act of 1979 (50 U.S.C. App. 2401b(b)(4)) and under section 73(d) of the Arms Export Control Act (22 U.S.C. 2797b(d)).

(9) An explanation of United States policy regarding the transfer of MTCR equipment or technology to foreign missile programs, including programs involving launches of space vehicles.

(10) A description of each transfer by any person or government during the preceding 12-month period which is subject to sanctions under the Iran-Iraq Arms Non-Proliferation Act of 1992 (title XVI of Public Law 102–484).

(d) EXCLUSIONS.—The countries excluded under subsection (a) are Australia, Belgium, Canada, the Czech Republic, Denmark, France, Germany, Greece, Hungary, Iceland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Poland, Portugal, Spain, Turkey, the United Kingdom, and the United States.

(e) CLASSIFICATION OF REPORT.—The Secretary shall make every effort to submit all of the information required by this section in unclassified form. Whenever the Secretary submits any such information in classified form, the Secretary shall submit such classified information in an addendum and shall also submit concurrently a

detailed summary, in unclassified form, of that classified information.

(f) DEFINITIONS.—In this section:

(1) DESIGNATED CONGRESSIONAL COMMITTEES.—The term "designated congressional committees" means—

(A) the Committee on Appropriations, the Committee on Armed Services, and the Committee on International Relations of the House of Representatives; and

(B) the Committee on Appropriations, the Committee on Armed Services, and the Committee on Foreign Relations of the Senate.

(2) MISSILE; MTCR; MTCR EQUIPMENT OR TECHNOLOGY.—The terms "missile", "MTCR", and "MTCR equipment or technology" have the meanings given those terms in section 74 of the Arms Export Control Act (22 U.S.C. 2797c).

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

(4) WEAPONIZE; WEAPONIZATION.—The term "weaponize" or "weaponization" means to incorporate into, or the incorporation into, usable ordnance or other militarily useful means of delivery.

(g) REPEALS.—

(1) IN GENERAL.—The following provisions of law are repealed:

(A) Section 1097 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (22 U.S.C. 2751 note).

(B) Section 308 of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (22 U.S.C. 5606).

(C) Section 1607(a) of the Iran-Iraq Arms Non-Proliferation Act of 1992 (Public Law 102–484).

(D) Paragraph (d) of section 585 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (as contained in section 101(c) of title I of division A of Public Law 104–208; 110 Stat. 3009–171).

(2) CONFORMING AMENDMENTS.—Section 585 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997, is amended—* * *

SEC. 1309. THREE-YEAR INTERNATIONAL ARMS CONTROL AND NONPROLIFERATION STRATEGY.

Not later than 180 days after the date of the enactment of this Act, the Secretary of State shall prepare and submit to the appropriate congressional committees a 3-year international arms control and nonproliferation strategy. The strategy shall contain the following:

(1) A 3-year plan for the reduction of existing nuclear, chemical, and biological weapons and ballistic missiles and for controlling the proliferation of these weapons.

(2) Identification of the goals and objectives of the United States with respect to arms control and nonproliferation of weapons of mass destruction and their delivery systems.

(3) A description of the programs, projects, and activities of the Department of State intended to accomplish goals and objectives described in paragraph (2).

Subtitle B—Russian Federation Debt Reduction for Nonproliferation

SEC. 1311.[16] SHORT TITLE.

This subtitle may be cited as the "Russian Federation Debt for Nonproliferation Act of 2002".

SEC. 1312.[16] FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) It is in the vital security interests of the United States to prevent the spread of weapons of mass destruction to additional states or to terrorist organizations, and to ensure that other nations' obligations to modify their stockpiles of such arms in accordance with treaties, executive agreements, or political commitments are fulfilled.

(2) In particular, it is in the vital national security interests of the United States to ensure that—

(A) all stocks of nuclear weapons and weapons-usable nuclear material in the Russian Federation are secure and accounted for;

(B) stocks of nuclear weapons and weapons-usable nuclear material that are excess to military needs in the Russian Federation are monitored and reduced;

(C) any chemical or biological weapons, related materials, and facilities in the Russian Federation are destroyed;

(D) the Russian Federation's nuclear weapons complex is reduced to a size appropriate to its post-Cold War missions, and its experts in weapons of mass destruction technologies are shifted to gainful and sustainable civilian employment;

(E) the Russian Federation's export control system blocks any proliferation of weapons of mass destruction, the means of delivering such weapons, and materials, equipment, know-how, or technology that would be used to develop, produce, or deliver such weapons; and

(F) these objectives are accomplished with sufficient monitoring and transparency to provide confidence that they have in fact been accomplished and that the funds provided to accomplish these objectives have been spent efficiently and effectively.

(3) United States programs should be designed to accomplish these vital objectives in the Russian Federation as rapidly as possible, and the President should develop and present to Congress a plan for doing so.

[16] 22 U.S.C. 5952 note.

(4) Substantial progress has been made in United States-Russian Federation cooperative programs to achieve these objectives, but much more remains to be done to reduce the urgent risks to United States national security posed by the current state of the Russian Federation's weapons of mass destruction stockpiles and complexes.

(5) The threats posed by inadequate management of weapons of mass destruction stockpiles and complexes in the Russian Federation remain urgent. Incidents in years immediately preceding 2001, which have been cited by the Russia Task Force of the Secretary of Energy Advisory Board, include—

(A) a conspiracy at one of the Russian Federation's largest nuclear weapons facilities to steal nearly enough highly enriched uranium for a nuclear bomb;

(B) an attempt by an employee of the Russian Federation's premier nuclear weapons facility to sell nuclear weapons designs to agents of Iraq and Afghanistan; and

(C) the theft of radioactive material from a Russian Federation submarine base.

(6) Addressing these threats to United States and world security will ultimately consume billions of dollars, a burden that will have to be shared by the Russian Federation, the United States, and other governments, if these threats are to be neutralized.

(7) The creation of new funding streams could accelerate progress in reducing these threats to United States security and help the government of the Russian Federation to fulfill its responsibility for secure management of its weapons stockpiles and complexes as United States assistance phases out.

(8) The Russian Federation has a significant foreign debt, a substantial proportion of which it inherited from the Soviet Union.

(9) Past debt-for-environment exchanges, in which a portion of a country's foreign debt is canceled in return for certain environmental commitments or payments by that country, suggest that a debt-for-nonproliferation exchange with the Russian Federation could be designed to provide additional funding for nonproliferation and arms reduction initiatives.

(10) Most of the Russian Federation's official bilateral debt is held by United States allies that are advanced industrial democracies. Since the issues described pose threats to United States allies as well, United States leadership that results in a larger contribution from United States allies to cooperative threat reduction activities will be needed.

(11) At the June 2002 meeting of the G–8 countries, agreement was achieved on a G–8 Global Partnership against the Spread of Weapons and Materials of Mass Destruction, under which the advanced industrial democracies committed to contribute $20,000,000,000 to nonproliferation programs in the Russian Federation during a 10-year period, with each contributing country having the option to fund some or all of its contribution through reduction in the Russian Federation's official debt to that country.

(12) The Russian Federation's Soviet-era official debt to the United States is estimated to be $480,000,000 in Lend-Lease debt and $2,250,000,000 in debt as a result of credits extended under title I of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1701 et seq.).

(b) PURPOSES.—The purposes of this subtitle are—

(1) to facilitate the accomplishment of the United States objectives described in the findings set forth in subsection (a) by providing for the use of a portion of the Russian Federation's foreign debt to fund nonproliferation programs, thus allowing the use of additional resources for these purposes; and

(2) to help ensure that the resources made available to the Russian Federation are targeted to the accomplishment of the United States objectives described in the findings set forth in subsection (a).

SEC. 1313.[16] DEFINITIONS.

In this subtitle:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means—

(A) the Committee on International Relations and the Committee on Appropriations of the House of Representatives; and

(B) the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

(2) COST.—The term "cost" has the meaning given that term in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)).

(3) RUSSIAN FEDERATION NONPROLIFERATION INVESTMENT AGREEMENT OR AGREEMENT.—The term "Russian Federation Nonproliferation Investment Agreement" or "Agreement" means the agreement between the United States and the Russian Federation entered into under section 1315(a).

(4) SOVIET-ERA DEBT.—The term "Soviet-era debt" means debt owed as a result of loans or credits provided by the United States (or any agency of the United States) to the Union of Soviet Socialist Republics under the Lend Lease Act of 1941 or the Commodity Credit Corporation Charter Act.

(5) STATE SPONSOR OF INTERNATIONAL TERRORISM.—The term "state sponsor of international terrorism" means those countries that have been determined by the Secretary of State, for the purposes of section 40 of the Arms Export Control Act, section 620A of the Foreign Assistance Act of 1961, or section 6(j) of the Export Administration Act of 1979, to have repeatedly provided support for acts of international terrorism.

SEC. 1314.[16] AUTHORITY TO REDUCE THE RUSSIAN FEDERATION'S SOVIET-ERA DEBT OBLIGATIONS TO THE UNITED STATES.

(a) AUTHORITY TO REDUCE DEBT.—

(1) IN GENERAL.—Upon the entry into force of a Russian Federation Nonproliferation Investment Agreement, the President may reduce amounts of Soviet-era debt owed by the Russian Federation to the United States (or any agency or instrumentality of the United States) that are outstanding as of the last

day of the fiscal year preceding the fiscal year for which appropriations are available for the reduction of debt, in accordance with this subtitle.

(2) LIMITATION.—The authority provided by paragraph (1) shall be available only to the extent that appropriations for the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) of reducing any debt pursuant to such subsection are made in advance.

(3) SUPERSEDES EXISTING LAW.—The authority provided by paragraph (1) may be exercised notwithstanding section 620(r) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(r)) or section 321 of the International Development and Food Assistance Act of 1975.

(b) IMPLEMENTATION.—

(1) DELEGATION OF AUTHORITY.—The President may delegate any authority conferred upon the President in this subtitle to the Secretary of State.

(2) ESTABLISHMENT OF TERMS AND CONDITIONS.—Consistent with this subtitle, the President shall establish the terms and conditions under which loans and credits may be reduced pursuant to subsection (a).

(3) IMPLEMENTATION.—In exercising the authority of subsection (a), the President—

(A) shall notify—

(i) the Department of State, with respect to obligations of the former Soviet Union under the Lend Lease Act of 1941; and

(ii) the Commodity Credit Corporation, with respect to obligations of the former Soviet Union under the Commodity Credit Corporation Act;

(B) shall direct the cancellation of old obligations and the substitution of new obligations consistent with the Russian Federation Nonproliferation Investment Agreement; and

(C) shall direct the appropriate agency to make an adjustment in the relevant accounts to reflect the new debt treatment.

(4) DEPOSIT OF REPAYMENTS.—All repayments of outstanding loan amounts under subsection (a) that are not designated under a Russian Federation Nonproliferation Investment Agreement shall be deposited in the United States Government accounts established for repayments of the original obligations.

(5) NOT TREATED AS FOREIGN ASSISTANCE.—Any reduction of Soviet-era debt pursuant to this subtitle shall not be considered assistance for the purposes of any provision of law limiting assistance to a country.

(c) AUTHORIZATION OF APPROPRIATION.—

(1) IN GENERAL.—For the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) of modifying any Soviet-era debt obligation pursuant to subsection (a), there are authorized to be appropriated to the President such sums as may be necessary.

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

SEC. 1315.[16] RUSSIAN FEDERATION NONPROLIFERATION INVESTMENT AGREEMENT.

(a) IN GENERAL.—

(1) IN GENERAL.—The President is authorized to enter into an agreement with the Russian Federation under which an amount equal to the value of the debt reduced pursuant to section 1314 will be used to promote the nonproliferation of weapons of mass destruction and the means of delivering such weapons. An agreement entered into under this section may be referred to as the "Russian Federation Nonproliferation Investment Agreement".

(2) CONGRESSIONAL NOTIFICATION.—The President shall notify the appropriate congressional committees at least 15 days in advance of the United States entering into a Russian Federation Nonproliferation Investment Agreement.

(b) CONTENT OF THE AGREEMENT.—The Russian Federation Nonproliferation Investment Agreement shall ensure that—

(1) an amount equal to the value of the debt reduced pursuant to this subtitle will be made available by the Russian Federation for agreed nonproliferation programs and projects;

(2) each program or project funded pursuant to the Agreement will be approved by the President;

(3) the administration and oversight of nonproliferation programs and projects will incorporate best practices from established threat reduction and nonproliferation assistance programs;

(4) each program or project funded pursuant to the Agreement will be subject to monitoring and audits conducted by or for the United States Government to confirm that agreed funds are expended on agreed projects and meet agreed targets and benchmarks;

(5) unobligated funds for investments pursuant to the Agreement will not be diverted to other purposes;

(6) funds allocated to programs and projects pursuant to the Agreement will not be subject to any taxation by the Russian Federation;

(7) all matters relating to the intellectual property rights and legal liabilities of United States firms in any project will be agreed upon before the expenditure of funds would be authorized for that project; and

(8) not less than 75 percent of the funds made available for each nonproliferation program or project under the Agreement will be spent in the Russian Federation.

(c) USE OF EXISTING MECHANISMS.—It is the sense of Congress that, to the extent practicable, the boards and administrative mechanisms of existing threat reduction and nonproliferation programs should be used in the administration and oversight of programs and projects under the Agreement.

(d) JOINT AUDITING.—It is the sense of Congress that the United States and the Russian Federation should consider commissioning

the United States General Accounting Office[17] and the Russian Chamber of Accounts to conduct joint audits to ensure that the funds saved by the Russian Federation as a result of any debt reduction are used exclusively, efficiently, and effectively to implement agreed programs or projects pursuant to the Agreement.

(e) STRUCTURE OF THE AGREEMENT.—It is the sense of Congress that the Agreement should provide for significant penalties—

(1) if funds obligated for approved programs or projects are determined to have been misappropriated; and

(2) if the President is unable to make the certification required by section 1317(a) for two consecutive years.

SEC. 1316.[16] INDEPENDENT MEDIA AND THE RULE OF LAW.

Notwithstanding section 1315 (a)(1) and (b)(1), up to 10 percent of the amount equal to the value of the debt reduced pursuant to this subtitle may be used to promote a vibrant, independent media sector and the rule of law in the Russian Federation through an endowment to support the establishment of a "Center for an Independent Press and the Rule of Law" in the Russian Federation, which shall be directed by a joint United States-Russian Board of Directors in which the majority of members, including the chairman, shall be United States personnel, and which shall be responsible for management of the endowment, its funds, and the Center's programs.

SEC. 1317.[16] RESTRICTION ON DEBT REDUCTION AUTHORITY.

(a) PROLIFERATION TO STATE SPONSORS OF TERRORISM.—Subject to the provisions of subsection (c), the debt reduction authority provided by section 1314 may not be exercised unless and until the President certifies to the appropriate congressional committees that the Russian Federation has made material progress in stemming the flow of sensitive goods, technologies, material, and know-how related to the design, development, and production of weapons of mass destruction and the means to deliver them to state sponsors of international terrorism.

(b) ANNUAL DETERMINATION.—If, in any annual report to Congress submitted pursuant to section 1321, the President cannot certify that the Russian Federation continues to meet the condition required in subsection (a), then, subject to the provisions of subsection (c), the debt reduction authority provided by section 1314 may not be exercised unless and until such certification is made to the appropriate congressional committees.

(c) PRESIDENTIAL WAIVER.—The President may waive the requirements of subsection (a) or (b) for a fiscal year if the President—

(1) determines that application of the subsection for a fiscal year would be counter to the national interest of the United States; and

(2) so reports to the appropriate congressional committees.

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[17] Sec. 8 of the GAO Human Capital Reform Act of 2004 (Public Law 108–271; 118 Stat. 814) redesignated the "General Accounting Office" as the "Government Accountability Office" and provided that "Any reference to the General Accounting Office in any law, rule, regulations, certificate, directive, instruction, or other official paper in force on the date of enactment of this Act shall be considered to refer and apply to the Government Accountability Office.".

SEC. 1318.[16] DISCUSSION OF RUSSIAN FEDERATION DEBT REDUCTION FOR NONPROLIFERATION WITH OTHER CREDITOR STATES.

It is the sense of Congress that the President and such other appropriate officials as the President may designate should pursue discussions with other creditor states with the objectives of—

(1) ensuring that other advanced industrial democracies, especially the largest holders of Soviet-era Russian debt, dedicate significant proportions of their bilateral official debt with the Russian Federation or equivalent amounts of direct assistance to the G–8 Global Partnership against the Spread of Weapons and Materials of Mass Destruction, as agreed upon in the Statement by G–8 Leaders on June 27, 2002; and

(2) reaching agreement, as appropriate, to establish a unified Russian Federation official debt reduction fund to manage and provide financial transparency for the resources provided by creditor states through debt reductions.

SEC. 1319.[16] IMPLEMENTATION OF UNITED STATES POLICY.

It is the sense of Congress that implementation of debt-for-nonproliferation programs with the Russian Federation should be overseen by the coordinating mechanism established pursuant to section 1334 of this Act.

SEC. 1320.[16] CONSULTATIONS WITH CONGRESS.

The President shall consult with the appropriate congressional committees on a periodic basis to review the implementation of this subtitle and the Russian Federation's eligibility for debt reduction pursuant to this subtitle.

SEC. 1321.[16] ANNUAL REPORTS TO CONGRESS.

Not later than December 31, 2003, and not later than December 31 of each year thereafter, the President shall prepare and transmit to Congress a report concerning actions taken to implement this subtitle during the fiscal year preceding the fiscal year in which the report is transmitted. The report on a fiscal year shall include—

(1) a description of the activities undertaken pursuant to this subtitle during the fiscal year;

(2) a description of the nature and amounts of the loans reduced pursuant to this subtitle during the fiscal year;

(3) a description of any agreement entered into under this subtitle;

(4) a description of the progress during the fiscal year of any projects funded pursuant to this subtitle;

(5) a summary of the results of relevant audits performed in the fiscal year; and

(6) a certification, if appropriate, that the Russian Federation continued to meet the condition required by section 1317(a), and an explanation of why the certification was or was not made.

Subtitle C—Nonproliferation Assistance Coordination

SEC. 1331.[18] SHORT TITLE.

This subtitle may be cited as the "Nonproliferation Assistance Coordination Act of 2002".

SEC. 1332.[19] FINDINGS.

Congress finds that—

(1) United States nonproliferation efforts in the independent states of the former Soviet Union have achieved important results in ensuring that weapons of mass destruction, weapons-usable material and technology, and weapons-related knowledge remain beyond the reach of terrorists and weapons-proliferating states;

(2) although these efforts are in the United States national security interest, the effectiveness of these efforts has suffered from a lack of coordination within and among United States Government agencies;

(3) increased spending and investment by the United States private sector on nonproliferation efforts in the independent states of the former Soviet Union, specifically, spending and investment by the United States private sector in job creation initiatives and proposals for unemployed Russian Federation weapons scientists and technicians, are making an important contribution in ensuring that knowledge related to weapons of mass destruction remains beyond the reach of terrorists and weapons-proliferating states; and

(4) increased spending and investment by the United States private sector on nonproliferation efforts in the independent states of the former Soviet Union make advisable the establishment of a coordinating body to ensure that United States public and private efforts are not in conflict, and to ensure that public spending on efforts by the independent states of the former Soviet Union is maximized to ensure efficiency and further United States national security interests.

SEC. 1333.[20] DEFINITIONS.

(a) INDEPENDENT STATES OF THE FORMER SOVIET UNION.—In this subtitle, the term "independent states of the former Soviet Union" has the meaning given the term in section 3 of the FREEDOM Support Act (22 U.S.C. 5801).

(b) APPROPRIATE COMMITTEES OF CONGRESS.—In this subtitle, the term "the appropriate committees of Congress" means the Committees on Foreign Relations, Armed Services, and Appropriations of the Senate and the Committees on International Relations, Armed Services, and Appropriations of the House of Representatives.

[18] 50 U.S.C. 2301 note.
[19] 50 U.S.C. 2357.
[20] 50 U.S.C. 2357a.

SEC. 1334.[21] ESTABLISHMENT OF COMMITTEE ON NONPROLIFERATION ASSISTANCE.

(a) IN GENERAL.—The President shall establish a mechanism to coordinate, with the maximum possible effectiveness and efficiency, the efforts of United States Government departments and agencies engaged in formulating policy and carrying out programs for achieving nonproliferation and threat reduction.

(b) MEMBERSHIP.—The coordination mechanism established pursuant to subsection (a) shall include—

(1) representatives designated by—

(A) the Secretary of State;

(B) the Secretary of Defense;

(C) the Secretary of Energy;

(D) the Secretary of Commerce;

(E) the Attorney General; and

(F) the Director of the Office of Homeland Security, or the head of a successor department or agency; and

(2) such other executive branch officials as the President may select.

(c) LEVEL OF REPRESENTATION.—To the maximum extent possible, each department or agency's representative designated pursuant to subsection (b)(1) shall be an official of that department or agency who has been appointed by the President with the advice and consent of the Senate.

(d) CHAIR.—The President shall designate an official to direct the coordination mechanism established pursuant to subsection (a). The official so designated may invite the head of any other department or agency of the United States to designate a representative of that department or agency to participate from time to time in the activities of the Committee.

SEC. 1335.[22] PURPOSES AND AUTHORITY.

(a) PURPOSES.—

(1) IN GENERAL.—The primary purpose of the coordination mechanism established pursuant to section 1334 of this Act should be—

(A) to exercise continuing responsibility for coordinating worldwide United States nonproliferation and threat reduction efforts to ensure that they effectively implement United States policy; and

(B) to enhance the ability of participating departments and agencies to anticipate growing nonproliferation areas of concern.

(2) PROGRAM MONITORING AND COORDINATION.—The coordination mechanism established pursuant to section 1334 of this Act should have primary continuing responsibility within the executive branch of the Government for—

(A) United States nonproliferation and threat reduction efforts, and particularly such efforts in the independent states of the former Soviet Union; and

(B) coordinating the implementation of United States policy with respect to such efforts.

[21] 50 U.S.C. 2357b.
[22] 50 U.S.C. 2357c.

(b) AUTHORITY.—In carrying out the responsibilities described in subsection (a), the coordination mechanism established pursuant to section 1334 of this Act should have, at a minimum, the authority to—

(1) establish such subcommittees and working groups as it deems necessary;

(2) direct the preparation of analyses on issues and problems relating to coordination within and among United States departments and agencies on nonproliferation and threat reduction efforts;

(3) direct the preparation of analyses on issues and problems relating to coordination between the United States public and private sectors on nonproliferation and threat reduction efforts, including coordination between public and private spending on nonproliferation and threat reduction programs and coordination between public spending and private investment in defense conversion activities of the independent states of the former Soviet Union;

(4) provide guidance on arrangements that will coordinate, deconflict, and maximize the utility of United States public spending on nonproliferation and threat reduction programs, and particularly such efforts in the independent states of the former Soviet Union;

(5) encourage companies and nongovernmental organizations involved in nonproliferation efforts of the independent states of the former Soviet Union or other countries of concern to voluntarily report these efforts to it;

(6) direct the preparation of analyses on issues and problems relating to the coordination between the United States and other countries with respect to nonproliferation efforts, and particularly such efforts in the independent states of the former Soviet Union; and

(7) consider, and make recommendations to the President with respect to, proposals for such new legislation or regulations relating to United States nonproliferation efforts as may be necessary.

SEC. 1336.[23] ADMINISTRATIVE SUPPORT.

All United States departments and agencies shall provide, to the extent permitted by law, such information and assistance as may be requested by the coordination mechanism established pursuant to section 1334 of this Act, in carrying out its functions and activities under this subtitle.

SEC. 1337.[24] CONFIDENTIALITY OF INFORMATION.

Information which has been submitted to or received by the coordination mechanism established pursuant to section 1334 of this Act in confidence shall not be publicly disclosed, except to the extent required by law, and such information shall be used by it only for the purpose of carrying out the functions set forth in this subtitle.

[23] 50 U.S.C. 2357d.
[24] 50 U.S.C. 2357e.

SEC. 1338.[25] STATUTORY CONSTRUCTION.

Nothing in this subtitle—

(1) applies to the data-gathering, regulatory, or enforcement authority of any existing United States department or agency over nonproliferation efforts in the independent states of the former Soviet Union, and the review of those efforts undertaken by the coordination mechanism established pursuant to section 1334 of this Act shall not in any way supersede or prejudice any other process provided by law; or

(2) applies to any activity that is reportable pursuant to title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.).

SEC. 1339.[26] REPORTING AND CONSULTATION.

(a) PRESIDENTIAL REPORT.—Not later than 120 days after each inauguration of a President, the President shall submit a report to the Congress on his general and specific nonproliferation and threat reduction objectives and how the efforts of executive branch agencies will be coordinated most effectively, pursuant to section 1334 of this Act, to achieve those objectives.

(b) CONSULTATION.—The President should consult with and brief, from time to time, the appropriate committees of Congress regarding the efficacy of the coordination mechanism established pursuant to section 1334 of this Act in achieving its stated objectives.

Subtitle D—Iran Nuclear Proliferation Prevention Act of 2002

SEC. 1341.[27] SHORT TITLE.

This subtitle may be cited as the "Iran Nuclear Proliferation Prevention Act of 2002".

SEC. 1342. WITHHOLDING OF VOLUNTARY CONTRIBUTIONS TO THE INTERNATIONAL ATOMIC ENERGY AGENCY FOR PROGRAMS AND PROJECTS IN IRAN.

Section 307 of the Foreign Assistance Act of 1961 (22 U.S.C. 2227) is amended by adding at the end the following: * * *

SEC. 1343.[28] ANNUAL REVIEW BY SECRETARY OF STATE OF PROGRAMS AND PROJECTS OF THE INTERNATIONAL ATOMIC ENERGY AGENCY; UNITED STATES OPPOSITION TO CERTAIN PROGRAMS AND PROJECTS OF THE AGENCY.

(a) ANNUAL REVIEW.—

(1) IN GENERAL.—The Secretary shall undertake a comprehensive annual review of all programs and projects of the International Atomic Energy Agency (IAEA) in the countries described in section 307(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2227(a)) and shall determine if such programs and projects are consistent with United States nuclear nonproliferation and safety goals.

(2) REPORT.—Not later than one year after the date of enactment of this Act, and on an annual basis thereafter for five years, the Secretary shall submit to Congress a report containing the results of the review under paragraph (1).

[25] 50 U.S.C. 2357f.
[26] 50 U.S.C. 2357g.
[27] 22 U.S.C. 2021 note.
[28] 22 U.S.C. 2027.

(b) OPPOSITION TO CERTAIN PROGRAMS AND PROJECTS OF INTERNATIONAL ATOMIC ENERGY AGENCY.—The Secretary shall direct the United States representative to the International Atomic Energy Agency to oppose programs of the Agency that are determined by the Secretary under the review conducted under subsection (a)(1) to be inconsistent with nuclear nonproliferation and safety goals of the United States.

SEC. 1344.[29] REPORTING REQUIREMENTS.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, and on an annual basis thereafter for five years, the Secretary, in consultation with the United States representative to the International Atomic Energy Agency, shall prepare and submit to Congress a report that contains—

(1) a description of the total amount of annual assistance to Iran from the International Atomic Energy Agency;

(2) a list of Iranian officials in leadership positions at the Agency;

(3) the expected timeframe for the completion of the nuclear power reactors at the Bushehr nuclear power plant;

(4) a summary of the nuclear materials and technology transferred to Iran from the Agency in the preceding year that could assist in the development of Iran's nuclear weapons program; and

(5) a description of all programs and projects of the International Atomic Energy Agency in each country described in section 307(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2227(a)) and any inconsistencies between the technical cooperation and assistance programs and projects of the Agency and United States nuclear nonproliferation and safety goals in those countries.

(b) ADDITIONAL REQUIREMENT.—The report required to be submitted under subsection (a) shall be submitted in an unclassified form, to the extent appropriate, but may include a classified annex.

SEC. 1345. SENSE OF CONGRESS.

It is the sense of Congress that the President should pursue internal reforms at the International Atomic Energy Agency that will ensure that all programs and projects funded under the Technical Cooperation and Assistance Fund of the Agency are compatible with United States nuclear nonproliferation policy and international nuclear nonproliferation norms.

TITLE XIV—EXPEDITING THE MUNITIONS LICENSING PROCESS

SEC. 1401. LICENSE OFFICER STAFFING.

(a) FUNDING.—Of the amount authorized to be appropriated by section 111(a)(1)(A), $10,000,000 is authorized to be available for salaries and expenses of the Office of Defense Trade Controls of the Department.

(b) ASSIGNMENT OF LICENSE REVIEW OFFICERS.—Effective January 1, 2003, the Secretary shall assign to the Office of Defense

[29] 22 U.S.C. 2021 note.

Trade Controls of the Department a sufficient number of license review officers to ensure that the average weekly caseload for each officer does not routinely exceed 40.

(c) DETAILEES.—Given the priority placed on expedited license reviews in recent years by the Department of Defense, the Secretary of Defense should ensure that 10 military officers are continuously detailed to the Office of Defense Trade Controls of the Department of State on a nonreimbursable basis.

SEC. 1402. FUNDING FOR DATABASE AUTOMATION.

Of the amount authorized to be appropriated by section 111(a)(2), $4,000,000 is authorized to be available for the Office of Defense Trade Controls of the Department for the modernization of information management systems.

SEC. 1403.[30] INFORMATION MANAGEMENT PRIORITIES.

(a) OBJECTIVE.—The Secretary shall establish a secure, Internet-based system for the filing and review of applications for export of Munitions List items.

(b) ESTABLISHMENT OF AN ELECTRONIC SYSTEM.—Of the amount made available pursuant to section 1402 of this Act, $3,000,000 is authorized to be available to fully automate the Defense Trade Application System, and to ensure that the system—

(1) is a secure, electronic system for the filing and review of Munitions List license applications;

(2) is accessible by United States companies through the Internet for the purpose of filing and tracking their Munitions List license applications; and

(3) is capable of exchanging data with—

(A) the Export Control Automated Support System of the Department of Commerce;

(B) the Foreign Disclosure and Technology Information System and the USXPORTS systems of the Department of Defense;

(C) the Export Control System of the Central Intelligence Agency; and

(D) the Proliferation Information Network System of the Department of Energy.

(c) MUNITIONS LIST DEFINED.—In this section, the term "Munitions List" means the United States Munitions List of defense articles and defense services controlled under section 38 of the Arms Export Control Act (22 U.S.C. 2778).

SEC. 1404. IMPROVEMENTS TO THE AUTOMATED EXPORT SYSTEM.

(a)[31] CONTRIBUTION TO THE AUTOMATED EXPORT SYSTEM.—Of the amount provided under section 1402 of this Act, $250,000 is authorized to be available for the purpose of—

(1) providing the Department with full access to the Automated Export System;

(2) ensuring that the system is modified to meet the needs of the Department, if such modifications are consistent with the needs of other United States Government agencies; and

(3) providing operational support.

[30] 22 U.S.C. 2778 note.
[31] 13 U.S.C. 301 note.

(b)[31] MANDATORY FILING.—The Secretary of Commerce, with the concurrence of the Secretary of State and the Secretary of Treasury, shall publish regulations in the Federal Register to require, upon the effective date of those regulations, that all persons who are required to file export information under chapter 9 of title 13, United States Code, file such information through the Automated Export System.

(c)[31] REQUIREMENT FOR INFORMATION SHARING.—The Secretary shall conclude an information-sharing arrangement with the heads of the United States Customs Service and the Census Bureau—

(1) to allow the Department to access information on controlled exports made through the United States Postal Service; and

(2) to adjust the Automated Export System to parallel information currently collected by the Department.

(d) SECRETARY OF TREASURY FUNCTIONS.—Section 303 of title 13, United States Code, is amended by striking ", other than by mail,".

(e) FILING EXPORT INFORMATION, DELAYED FILINGS, PENALTIES FOR FAILURE TO FILE.—Section 304 of title 13, United States Code, is amended—* * *

(f) ADDITIONAL PENALTIES.—

(1) IN GENERAL.—Section 305 of title 13, United States Code, is amended to read as follows:

"SEC. 305. PENALTIES FOR UNLAWFUL EXPORT INFORMATION ACTIVITIES. * * *".

SEC. 1405. ADJUSTMENT OF THRESHOLD AMOUNTS FOR CONGRESSIONAL REVIEW PURPOSES.

(a) IN GENERAL.—The Arms Export Control Act is amended—* * *[32]

(b) LICENSES FOR EXPORTS TO INDIA AND PAKISTAN.—Section 9001(e) of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) is amended by adding at the end the following: "The application of these requirements shall be subject to the dollar amount thresholds specified in that section.".

SEC. 1406. CONGRESSIONAL NOTIFICATION OF REMOVAL OF ITEMS FROM THE MUNITIONS LIST.

Section 38(f)(1) of the Arms Export Control Act (22 U.S.C. 778(f)(1)) is amended by striking the third sentence and inserting the following: "The President may not remove any item from the Munitions List until 30 days after the date on which the President has provided notice of the proposed removal to the Committee on International Relations of the House of Representatives and to the Committee on Foreign Relations of the Senate in accordance with the procedures applicable to reprogramming notifications under section 634A(a) of the Foreign Assistance Act of 1961. Such notice shall describe the nature of any controls to be imposed on that item under any other provision of law.".

[32] Sec. 1405(a) amended the Arms Export Control Act at secs. 3(d), 36, 47, and 63(a). For amended text, see *Legislation on Foreign Relations Through 2004*, vol. I–A.

TITLE XV—NATIONAL SECURITY ASSISTANCE STRATEGY

SEC. 1501. BRIEFING ON THE STRATEGY.

Not later than March 31, 2003, officials of the Department and the Department of Defense shall brief the appropriate congressional committees regarding their plans and progress in formulating and implementing a national security assistance strategy. This briefing shall include—

(1) a description of how, and to what extent, the elements of the strategy recommended in section 501(b) of the Security Assistance Act of 2000 (22 U.S.C. 2305(b)) have been or will be incorporated in security assistance plans and decisions;

(2) the number of out-years considered in the strategy;

(3) a description of the actions taken to include the programs listed in section 501(c) of the Security Assistance Act of 2000 (22 U.S.C. 2305(c)), as well as similar programs of military training or other assistance to the military or security forces of a foreign country;

(4) a description of how a national security assistance strategy is being implemented regarding specific countries;

(5) a description of any programmatic changes adopted or expected as a result of adopting a strategic approach to security assistance policymaking;

(6) a description of any obstacles encountered in formulating or implementing a national security assistance strategy; and

(7) a description of any resource or legislative needs highlighted by this process.

SEC. 1502. SECURITY ASSISTANCE SURVEYS.

(a) UTILIZATION.—The Secretary should utilize security assistance surveys in preparation of a national security assistance strategy pursuant to section 501 of the Security Assistance Act of 2000 (22 U.S.C. 2305).

(b) FUNDING.—Of the amount made available for the fiscal year 2003 under section 23 of the Arms Export Control Act (22 U.S.C. 2763), $2,000,000 is authorized to be available to the Secretary to conduct security assistance surveys, or to request such surveys, on a reimbursable basis, by the Department of Defense or other United States Government agencies. Such surveys shall be conducted consistent with the requirements of section 26 of the Arms Export Control Act (22 U.S.C. 2766).

TITLE XVI—MISCELLANEOUS PROVISIONS

SEC. 1601. NUCLEAR AND MISSILE NONPROLIFERATION IN SOUTH ASIA.

(a) UNITED STATES POLICY.—It shall be the policy of the United States, consistent with its obligations under the Treaty on the Non-Proliferation of Nuclear Weapons (21 U.S.T. 483), to encourage and work with the governments of India and Pakistan to achieve the following objectives by September 30, 2003:

(1) Continuation of a nuclear testing moratorium.

(2) Commitment not to deploy nuclear weapons.

(3) Commitment not to deploy ballistic missiles that can carry nuclear weapons and to restrain the ranges and types of missiles developed or deployed.

(4) Agreement by both governments to bring their export controls in accord with the guidelines and requirements of the Nuclear Suppliers Group.

(5) Agreement by both governments to bring their export controls in accord with the guidelines and requirements of the Zangger Committee.

(6) Agreement by both governments to bring their export controls in accord with the guidelines, requirements, and annexes of the Missile Technology Control Regime.

(7) Establishment of a modern, effective system to control the export of sensitive dual-use items, technology, technical information, and materiel that can be used in the design, development, or production of weapons of mass destruction and ballistic missiles.

(8) Conduct of bilateral meetings between Indian and Pakistani senior officials to discuss security issues and establish confidence-building measures with respect to nuclear policies and programs.

(b) FURTHER UNITED STATES POLICY.—It shall also be the policy of the United States, consistent with its obligations under the Treaty on the Nonproliferation of Nuclear Weapons (21 U.S.T. 483), to encourage, and, where appropriate, to work with, the Governments of India and Pakistan to achieve not later than September 30, 2003, the establishment by those governments of modern, effective systems to protect and secure their nuclear devices and materiel from unauthorized use, accidental employment, or theft. Any such dialogue with India or Pakistan would not be represented or considered, nor would it be intended, as granting any recognition to India or Pakistan, as appropriate, as a nuclear weapon state (as defined in the Treaty on the Non-Proliferation of Nuclear Weapons).

(c) REPORT.—Not later than March 1, 2003, the President shall submit to the appropriate congressional committees a report describing United States efforts to achieve the objectives listed in subsections (a) and (b), the progress made toward the achievement of those objectives, and the likelihood that each objective will be achieved by September 30, 2003.

SEC. 1602.[33] REAL-TIME PUBLIC AVAILABILITY OF RAW SEISMOLOGICAL DATA.

The head of the Air Force Technical Applications Center shall make available to the public, immediately upon receipt or as soon after receipt as is practicable, all raw seismological data provided to the United States Government by any international monitoring organization that is directly responsible for seismological monitoring.

[33] 42 U.S.C. 7704 note.

SEC. 1603. DETAILING UNITED STATES GOVERNMENTAL PERSONNEL TO INTERNATIONAL ARMS CONTROL AND NONPROLIFERATION ORGANIZATIONS.

(a) IN GENERAL.—The Secretary, in consultation with the Secretaries of Defense and Energy and the heads of other relevant United States departments and agencies, as appropriate, should develop measures to improve the process by which United States Government personnel may be detailed to international arms control and nonproliferation organizations without adversely affecting the pay or career advancement of such personnel.

(b) REPORT REQUIRED.—Not later than May 1, 2003, the Secretary shall submit a report to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives setting forth the measures taken under subsection (a).

SEC. 1604.[34] DIPLOMATIC PRESENCE OVERSEAS.

(a) PURPOSE.—The purpose of this section is to—

(1) elevate the stature given United States diplomatic initiatives relating to nonproliferation and political-military issues; and

(2) develop a group of highly specialized, technical experts with country expertise capable of administering the nonproliferation and political-military affairs functions of the Department.

(b) AUTHORITY.—To carry out the purposes of subsection (a), the Secretary is authorized to establish the position of Counselor for Nonproliferation and Political Military Affairs in United States diplomatic missions overseas, to be filled by individuals who are career Civil Service officers or Foreign Service officers committed to follow-on assignments in the Nonproliferation Bureau or the Political Military Affairs Bureau of the Department.

(c) TRAINING.—After being selected to serve as Counselor, any person so selected shall spend not less than 10 months in language training courses at the Foreign Service Institute, or in technical courses administered by the Department of Defense, the Department of Energy, or other appropriate departments and agencies of the United States, except that such requirement for training may be waived by the Secretary.

SEC. 1605. COMPLIANCE WITH THE CHEMICAL WEAPONS CONVENTION.

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

(1) On April 24, 1997, the Senate provided its advice and consent to ratification of the Chemical Weapons Convention subject to the condition, among others, that the President certify that no sample collected in the United States pursuant to the Convention will be transferred for analysis to any laboratory outside the territory of the United States.

(2) Congress enacted the same condition into law as section 304(f)(1) of the Chemical Weapons Convention Implementation Act of 1998 (22 U.S.C. 6724(f)(1)).

(3) Part II, paragraph 57, of the Verification Annex of the Convention requires that all samples requiring off-site analysis

[34] 22 U.S.C. 2655b.

under the Convention shall be analyzed by at least two laboratories that have been designated as capable of conducting such testing by the OPCW.

(4) The only United States laboratory currently designated by the OPCW is the United States Army Edgewood Forensic Science Laboratory.

(5) In order to comply with the Chemical Weapons Convention, the certification submitted pursuant to condition (18) of the resolution of ratification of the Chemical Weapons Convention, and the requirements of section 304(f)(1) of the Chemical Weapons Convention Implementation Act of 1998 (22 U.S.C. 6724(f)(1)), the United States must possess, at a minimum, a second OPCW-designated laboratory.

(6) The possession of a second OPCW-designated laboratory is necessary in view of the potential for a challenge inspection to be initiated against the United States by a foreign nation.

(7) The possession of a third OPCW-designated laboratory would enable the OPCW to implement its normal sample analysis procedures, which randomly assign real and manufactured samples so that no laboratory knows the origin of a given sample.

(8) To qualify as a designated laboratory, a laboratory must be certified under ISO Guide 25 or a higher standard and complete three proficiency tests. The laboratory must have the full capability to handle substances listed on Schedule 1 of the Annex on Schedules of Chemicals of the Chemical Weapons Convention. In order to handle such substances in the United States, a laboratory also must operate under a bailment agreement with the United States Army.

(9) Several existing United States commercial laboratories have approved quality control systems, already possess bailment agreements with the United States Army, and have the capabilities necessary to obtain OPCW designation.

(10) In order to bolster the legitimacy of United States analysis of samples taken on its national territory, it is preferable that one designated laboratory not be a United States Government facility.

(b) ESTABLISHMENT OF NON-GOVERNMENTAL DESIGNATED LABORATORY.—

(1) REPORT.—Not later than March 1, 2003, the United States National Authority, as designated under section 101 of the Chemical Weapons Convention Implementation Act of 1998 (22 U.S.C. 6711) (referred to in this section as the "National Authority"), shall submit to the appropriate congressional committees a report detailing a plan for securing OPCW designation of a nongovernmental United States laboratory by December 1, 2004.

(2) DIRECTIVE.—Not later than June 1, 2003, the National Authority shall select, through competitive procedures, a nongovernmental laboratory within the United States to pursue designation by the OPCW.

(3) DELEGATION.—The National Authority may delegate the authority and administrative responsibility for carrying out

paragraph (2) to one or more of the heads of the agencies described in section 101(b)(2) of the Chemical Weapons Convention Implementation Act of 1998 (22 U.S.C. 6711(b)(2)).

(c) DEFINITIONS.—In this section:

(1) CHEMICAL WEAPONS CONVENTION OR CONVENTION.—The term "Chemical Weapons Convention" or "Convention" means the Convention on the Prohibition of Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, Opened for Signature and Signed by the United States at Paris on January 13, 1993, including the following protocols and memorandum of understanding:

(A) The Annex on Chemicals.

(B) The Annex on Implementation and Verification.

(C) The Annex on the Protection of Confidential Information.

(D) The Resolution Establishing the Preparatory Commission for the Organization for the Prohibition of Chemical Weapons.

(E) The Text on the Establishment of a Preparatory Commission.

(2) OPCW.—The term "OPCW" means the Organization for the Prohibition of Chemical Weapons established under the Convention.

TITLE XVII—AUTHORITY TO TRANSFER NAVAL VESSELS

SEC. 1701. AUTHORITY TO TRANSFER NAVAL VESSELS TO CERTAIN FOREIGN COUNTRIES.

(a) TRANSFERS BY GRANT.—The President is authorized to transfer vessels to foreign countries on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) as follows:

(1) POLAND.—To the Government of Poland, the OLIVER HAZARD PERRY class guided missile frigate WADSWORTH (FFG 9).

(2) TURKEY.—To the Government of Turkey, the KNOX class frigates CAPODANNO (FF 1093), THOMAS C. HART (FF 1092), DONALD B. BEARY (FF 1085), McCANDLESS (FF 1084), REASONER (FF 1063), and BOWEN (FF 1079).

(b) TRANSFERS BY SALE.—The President is authorized to transfer vessels to foreign governments and foreign governmental entities on a sale basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761) as follows:

(1) MEXICO.—To the Government of Mexico, the NEWPORT class tank landing ship FREDERICK (LST 1184).

(2) TAIWAN.—To the Taipei Economic and Cultural Representative Office in the United States (which is the Taiwan instrumentality designated pursuant to section 10(a) of the Taiwan Relations Act), the KIDD class guided missile destroyers KIDD (DDG 993), CALLAGHAN (DDG 994), SCOTT (DDG 995), and CHANDLER (DDG 996).

(3) TURKEY.—To the Government of Turkey, the OLIVER HAZARD PERRY class guided missile frigates ESTOCIN (FFG 15) and SAMUEL ELIOT MORISON (FFG 13).

(c) GRANTS NOT COUNTED IN ANNUAL TOTAL OF TRANSFERRED EXCESS DEFENSE ARTICLES.—The value of a vessel transferred to

another country on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) pursuant to authority provided by subsection (a) shall not be counted for the purposes of subsection (g) of that section in the aggregate value of excess defense articles transferred to countries under that section in any fiscal year.

(d) COSTS OF TRANSFERS ON GRANT BASIS.—Any expense incurred by the United States in connection with a transfer authorized by this section shall be charged to the recipient (notwithstanding section 516(e)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(e)(1))) in the case of a transfer authorized to be made on a grant basis under subsection (a).

(e) WAIVER AUTHORITY.—For a vessel transferred on a grant basis pursuant to authority provided by subsection (a)(2), the President may waive reimbursement of charges for the lease of that vessel under section 61(a) of the Arms Export Control Act (22 U.S.C. 2796(a)) for a period of one year before the date of the transfer of that vessel.

(f) REPAIR AND REFURBISHMENT IN UNITED STATES SHIPYARDS.—To the maximum extent practicable, the President shall require, as a condition of the transfer of a vessel under this section, that the country to which the vessel is transferred have such repair or refurbishment of the vessel as is needed, before the vessel joins the naval forces of that country, performed at a shipyard located in the United States, including a United States Navy shipyard.

(g) EXPIRATION OF AUTHORITY.—The authority to transfer a vessel under this section shall expire at the end of the two-year period beginning on the date of the enactment of this Act.

(2) Gerald B. H. Solomon Freedom Consolidation Act of 2002 [1]

Public Law 107–187 [H.R. 3167], 116 Stat. 590, approved June 10, 2002

AN ACT To endorse the vision of further enlargement of the NATO Alliance articulated by President George W. Bush on June 15, 2001, and by former President William J. Clinton on October 22, 1996, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Gerald B. H. Solomon Freedom Consolidation Act of 2002".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) In the NATO Participation Act of 1994 (title II of Public Law 103–447; 22 U.S.C. 1928 note), Congress declared that "full and active participants in the Partnership for Peace in a position to further the principles of the North Atlantic Treaty and to contribute to the security of the North Atlantic area should be invited to become full NATO members in accordance with Article 10 of such Treaty at an early date . . .".

(2) In the NATO Enlargement Facilitation Act of 1996 (title VI of section 101(c) of title I of division A of Public Law 104–208; 22 U.S.C. 1928 note), Congress called for the prompt admission of Poland, Hungary, the Czech Republic, and Slovenia to NATO, and declared that "in order to promote economic stability and security in Slovakia, Estonia, Latvia, Lithuania, Romania, Bulgaria, Albania, Moldova, and Ukraine . . . the process of enlarging NATO to include emerging democracies in Central and Eastern Europe should not be limited to consideration of admitting Poland, Hungary, the Czech Republic, and Slovenia as full members of the NATO Alliance".

(3) In the European Security Act of 1998 (title XXVII of division G of Public Law 105–277; 22 U.S.C. 1928 note), Congress declared that "Poland, Hungary, and the Czech Republic should not be the last emerging democracies in Central and Eastern Europe invited to join NATO" and that "Romania, Estonia, Latvia, Lithuania, and Bulgaria . . . would make an outstanding contribution to furthering the goals of NATO and enhancing stability, freedom, and peace in Europe should they become NATO members [and] upon complete satisfaction of all relevant criteria should be invited to become full NATO members at the earliest possible date".

(4) At the Madrid Summit of the NATO Alliance in July 1997, Poland, Hungary, and the Czech Republic were invited

[1] 22 U.S.C. 1928 note.

to join the Alliance in the first round of NATO enlargement, and the NATO heads of state and government issued a declaration stating "[t]he Alliance expects to extend further invitations in coming years to nations willing and able to assume the responsibilities and obligations of membership . . . [n]o European democratic country whose admission would fulfill the objectives of the [North Atlantic] Treaty will be excluded from consideration".

(5) At the Washington Summit of the NATO Alliance in April 1999, the NATO heads of state and government issued a communique declaring "[w]e pledge that NATO will continue to welcome new members in a position to further the principles of the [North Atlantic] Treaty and contribute to peace and security in the Euro-Atlantic area . . . [t]he three new members will not be the last . . . [n]o European democratic country whose admission would fulfill the objectives of the Treaty will be excluded from consideration, regardless of its geographic location . . .".

(6) In late 2002, NATO will hold a summit in Prague, the Czech Republic, at which it will decide which additional emerging democracies in Central and Eastern Europe to invite to join the Alliance in the next round of NATO enlargement.

(7) In May 2000 in Vilnius, Lithuania, the foreign ministers of Albania, Bulgaria, Estonia, Latvia, Lithuania, the Former Yugoslav Republic of Macedonia, Romania, Slovakia, and Slovenia issued a statement (later joined by Croatia) declaring that their countries will cooperate in jointly seeking NATO membership in the next round of NATO enlargement, that the realization of NATO membership by one or more of these countries would be a success for all, and that eventual NATO membership for all of these countries would be a success for Europe and NATO.

(8) On June 15, 2001, in a speech in Warsaw, Poland, President George W. Bush stated "[a]ll of Europe's new democracies, from the Baltic to the Black Sea and all that lie between, should have the same chance for security and freedom—and the same chance to join the institutions of Europe—as Europe's old democracies have . . . I believe in NATO membership for all of Europe's democracies that seek it and are ready to share the responsibilities that NATO brings . . . [a]s we plan to enlarge NATO, no nation should be used as a pawn in the agenda of others . . . [w]e will not trade away the fate of free European peoples . . . [n]o more Munichs . . . [n]o more Yaltas . . . [a]s we plan the Prague Summit, we should not calculate how little we can get away with, but how much we can do to advance the cause of freedom".

(9) On October 22, 1996, in a speech in Detroit, Michigan, former President William J. Clinton stated "NATO's doors will not close behind its first new members . . . NATO should remain open to all of Europe's emerging democracies who are ready to shoulder the responsibilities of membership . . . [n]o nation will be automatically excluded . . . [n]o country outside NATO will have a veto . . . [a] gray zone of insecurity must not reemerge in Europe".

SEC. 3. DECLARATIONS OF POLICY.

Congress—

(1) reaffirms its previous expressions of support for continued enlargement of the NATO Alliance contained in the NATO Participation Act of 1994, the NATO Enlargement Facilitation Act of 1996, and the European Security Act of 1998;

(2) supports the commitment to further enlargement of the NATO Alliance expressed by the Alliance in its Madrid Declaration of 1997 and its Washington Summit Communique of 1999; and

(3) endorses the vision of further enlargement of the NATO Alliance articulated by President George W. Bush on June 15, 2001, and by former President William J. Clinton on October 22, 1996, and urges our NATO allies to work with the United States to realize this vision at the Prague Summit in 2002.

SEC. 4. DESIGNATION OF SLOVAKIA TO RECEIVE ASSISTANCE UNDER THE NATO PARTICIPATION ACT OF 1994.

(a) IN GENERAL.—Slovakia is designated as eligible to receive assistance under the program established under section 203(a) of the NATO Participation Act of 1994 (title II of Public Law 103–447; 22 U.S.C. 1928 note) and shall be deemed to have been so designated pursuant to section 203(d)(1) of such Act.

(b) RULE OF CONSTRUCTION.—The designation of Slovakia pursuant to subsection (a) as eligible to receive assistance under the program established under section 203(a) of the NATO Participation Act of 1994—

(1) is in addition to the designation of Poland, Hungary, the Czech Republic, and Slovenia pursuant to section 606 of the NATO Enlargement Facilitation Act of 1996 (title VI of section 101(c) of title I of division A of Public Law 104–208; 22 U.S.C. 1928 note) and the designation of Romania, Estonia, Latvia, Lithuania, and Bulgaria pursuant to section 2703(b) of the European Security Act of 1998 (title XXVII of division G of Public Law 105–277; 22 U.S.C. 1928 note) as eligible to receive assistance under the program established under section 203(a) of the NATO Participation Act of 1994; and

(2) shall not preclude the designation by the President of other emerging democracies in Central and Eastern Europe pursuant to section 203(d)(2) of the NATO Participation Act of 1994 as eligible to receive assistance under the program established under section 203(a) of such Act.

SEC. 5. AUTHORIZATION OF SECURITY ASSISTANCE FOR COUNTRIES DESIGNATED UNDER THE NATO PARTICIPATION ACT OF 1994.

(a) AUTHORIZATION OF FOREIGN MILITARY FINANCING.—Of the amounts made available for fiscal year 2002 under section 23 of the Arms Export Control Act (22 U.S.C. 2763)—

(1) $6,500,000 is authorized to be available on a grant basis for Estonia;

(2) $7,000,000 is authorized to be available on a grant basis for Latvia;

(3) $7,500,000 is authorized to be available on a grant basis for Lithuania;

(4) $8,500,000 is authorized to be available on a grant basis for Slovakia;

(5) $4,500,000 is authorized to be available on a grant basis for Slovenia;

(6) $10,000,000 is authorized to be available on a grant basis for Bulgaria; and

(7) $11,500,000 is authorized to be available on a grant basis for Romania.

(b)[2] CONFORMING AMENDMENT.—Subsection (a) of section 515 of the Security Assistance Act of 2000 (Public Law 106–280) is amended by striking paragraphs (1), (5), (6), (7), and (8) and redesignating paragraphs (2), (3), (4), and (9) as paragraphs (1) through (4), respectively.

[2] For amended text, see page 458.

(3) Security Assistance Act of 2000

Partial text of Public Law 106–280 [H.R. 4919], 114 Stat. 845, approved October 6, 2000; amended by Public Law 107–187 [Gerald B.H. Solomon Freedom Consolidation Act of 2002; H.R. 3167], 116 Stat. 590, approved June 10, 2002; and by Public Law 107–228 [Foreign Relations Authorization Act, Fiscal Year 2003; H.R. 1646], 116 Stat. 1350, approved September 30, 2002

AN ACT To amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to make improvements to certain defense and security assistance provisions under those Acts, to authorize the transfer of naval vessels to certain foreign countries, and for other purposes.

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

SECTION 1.[1] SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Security Assistance Act of 2000".

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

	Page
Sec. 1. Short title; table of contents	448
Sec. 2. Definition	449
TITLE I—MILITARY AND RELATED ASSISTANCE	
Subtitle A—Foreign Military Sales and Financing Authorities	
Sec. 101. Authorization of appropriations	449
Sec. 102. Requirements relating to country exemptions for licensing of defense items for export to foreign countries	450
Subtitle B—Stockpiling of Defense Articles for Foreign Countries	
Sec. 111. Additions to United States war reserve stockpiles for allies	450
Sec. 112. Transfer of certain obsolete or surplus defense articles in the war reserve stockpiles for allies to Israel	450
Subtitle C—Other Assistance	
Sec. 121. Defense drawdown special authorities	451
Sec. 122. Increased authority for the transport of excess defense articles	451
TITLE II—INTERNATIONAL MILITARY EDUCATION AND TRAINING	
Sec. 201. Authorization of appropriations	451
Sec. 202. Additional requirements	451
TITLE III—NONPROLIFERATION AND EXPORT CONTROL ASSISTANCE	
Sec. 301. Nonproliferation and export control assistance	452
Sec. 302. Nonproliferation and export control training in the United States	452
Sec. 303. Science and technology centers	452
Sec. 304. Trial transit program	452
Sec. 305. Exception to authority to conduct inspections under the Chemical Weapons Convention Implementation Act of 1998	453

[1] 22 U.S.C. 2151 note. See also Security Assistance Act of 2002 (division B of Public Law 107–228; 116 Stat. 1425), in *Legislation on Foreign Relations Through 2004*, vol. I–A.

TITLE IV—ANTITERRORISM ASSISTANCE

Sec. 401. Authorization of appropriations 453

TITLE V—INTEGRATED SECURITY ASSISTANCE PLANNING

Subtitle A—Establishment of a National Security Assistance Strategy

Sec. 501. National Security Assistance Strategy 453

Subtitle B—Allocations for Certain Countries

Sec. 511. Security assistance for new NATO members 454
Sec. 512. Increased training assistance for Greece and Turkey 454
Sec. 513. Assistance for Israel 454
Sec. 514. Assistance for Egypt 456
Sec. 515. Security assistance for certain countries 458
Sec. 516. Border security and territorial independence 458

TITLE VI—TRANSFERS OF NAVAL VESSELS

Sec. 601. Authority to transfer naval vessels to certain foreign countries 459
Sec. 602. Inapplicability of aggregate annual limitation on value of transferred excess defense articles 459
Sec. 603. Costs of transfers 459
Sec. 604. Conditions relating to combined lease-sale transfers 459
Sec. 605. Funding of certain costs of transfers 460
Sec. 606. Repair and refurbishment in United States shipyards 460
Sec. 607. Sense of the Congress regarding transfer of naval vessels on a grant basis 460
Sec. 608. Expiration of authority 460

TITLE VII—MISCELLANEOUS PROVISIONS

Sec. 701. Utilization of defense articles and defense services 461
Sec. 702. Annual military assistance report 461
Sec. 703. Report on government-to-government arms sales end-use monitoring program 461
Sec. 704. MTCR report transmittals 461
Sec. 705. Stinger missiles in the Persian Gulf region 461
Sec. 706. Sense of the Congress regarding excess defense articles 461
Sec. 707. Excess defense articles for Mongolia 462
Sec. 708. Space cooperation with Russian persons 462
Sec. 709. Sense of the Congress relating to military equipment for the Philippines 463
Sec. 710. Waiver of certain costs 464

SEC. 2.[2] DEFINITION.

In this Act, the term "appropriate committees of Congress" means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

TITLE I—MILITARY AND RELATED ASSISTANCE

Subtitle A—Foreign Military Sales and Financing Authorities

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for grant assistance under section 23 of the Arms Export Control Act (22 U.S.C. 2763) and for the subsidy cost, as defined in section 502(5) of the Federal Credit Reform Act of 1990, of direct loans under such section $3,550,000,000 for fiscal year 2001 and $3,627,000,000 for fiscal year 2002.

[2] 22 U.S.C. 2305 note.

SEC. 102. REQUIREMENTS RELATING TO COUNTRY EXEMPTIONS FOR LICENSING OF DEFENSE ITEMS FOR EXPORT TO FOREIGN COUNTRIES.

(a) REQUIREMENTS OF EXEMPTION.—Section 38 of the Arms Export Control Act (22 U.S.C. 2778) is amended by adding at the end the following: * * *[3]

(b) NOTIFICATION OF EXEMPTION.—Section 38(f) of the Arms Export Control Act (22 U.S.C. 2778(f)) is amended—* * *

(c) EXPORTS OF COMMERCIAL COMMUNICATIONS SATELLITES.—

(1) AMENDMENT OF THE ARMS EXPORT CONTROL ACT.—Section 36(c)(2) of the Arms Export Control Act (22 U.S.C. 2776(c)(2)) is amended—* * *

(2) SENSE OF THE CONGRESS.—It is the sense of the Congress that the appropriate committees of Congress and the appropriate agencies of the United States Government should review the commodity jurisdiction of United States commercial communications satellites.

(d) SENSE OF THE CONGRESS ON SUBMISSION TO THE SENATE OF CERTAIN AGREEMENTS AS TREATIES.—It is the sense of the Congress that, prior to amending the International Traffic in Arms Regulations, the Secretary of State should consult with the appropriate committees of Congress for the purpose of determining whether certain agreements regarding defense trade with the United Kingdom and Australia should be submitted to the Senate as treaties.

SUBTITLE B—STOCKPILING OF DEFENSE ARTICLES FOR FOREIGN COUNTRIES

SEC. 111. ADDITIONS TO UNITED STATES WAR RESERVE STOCKPILES FOR ALLIES.

Section 514(b)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321h(b)(2)) is amended to read as follows:

"(2)(A) The value of such additions to stockpiles of defense articles in foreign countries shall not exceed $50,000,000 for fiscal year 2001.

"(B) Of the amount specified in subparagraph (A), not more than $50,000,000 may be made available for stockpiles in the Republic of Korea.".

SEC. 112. TRANSFER OF CERTAIN OBSOLETE OR SURPLUS DEFENSE ARTICLES IN THE WAR RESERVE STOCKPILES FOR ALLIES TO ISRAEL.

(a) TRANSFERS TO ISRAEL.—

(1) AUTHORITY.—Notwithstanding section 514 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321h), the President is authorized to transfer to Israel, in return for concessions to be negotiated by the Secretary of Defense, with the concurrence of the Secretary of State, any or all of the items described in paragraph (2).

(2) ITEMS COVERED.—The items referred to in paragraph (1) are munitions, equipment, and material such as armor, artillery, automatic weapons ammunition, and missiles that—

[3] For text of the Arms Export Control Act, as amended, see *Legislation on Foreign Relations Through 2004*, vol. I–A.

(A) are obsolete or surplus items;

(B) are in the inventory of the Department of Defense;

(C) are intended for use as reserve stocks for Israel; and

(D) as of the date of the enactment of this Act, are located in a stockpile in Israel.

(b) CONCESSIONS.—The value of concessions negotiated pursuant to subsection (a) shall be at least equal to the fair market value of the items transferred. The concessions may include cash compensation, services, waiver of charges otherwise payable by the United States, and other items of value.

(c) ADVANCE NOTIFICATION OF TRANSFER.—Not less than 30 days before making a transfer under the authority of this section, the President shall transmit to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives a notification of the proposed transfer. The notification shall identify the items to be transferred and the concessions to be received.

(d) EXPIRATION OF AUTHORITY.—No transfer may be made under the authority of this section 3 years after the date of the enactment of this Act.

SUBTITLE C—OTHER ASSISTANCE

SEC. 121. DEFENSE DRAWDOWN SPECIAL AUTHORITIES.

(a) EMERGENCY DRAWDOWN.—Section 506(a)(2)(B) of the Foreign Assistance Act of 1961 (22 U.S.C. 2318(a)(2)(B)) is amended by striking "$150,000,000" and inserting "$200,000,000".

(b) ADDITIONAL DRAWDOWN.—Section 506(a)(2)(A)(i) of such Act (22 U.S.C. 2318(a)(2)(A)(i)) is amended—* * *[4]

SEC. 122. INCREASED AUTHORITY FOR THE TRANSPORT OF EXCESS DEFENSE ARTICLES.

Section 516(e)(2)(C) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(e)(2)(C)) is amended by striking "25,000" and inserting "50,000".

TITLE II—INTERNATIONAL MILITARY EDUCATION AND TRAINING

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the President $55,000,000 for fiscal year 2001 and $65,000,000 for fiscal year 2002 to carry out chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.).

SEC. 202. ADDITIONAL REQUIREMENTS.

Chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.) is amended by adding at the end the following new sections: * * *[5]

[4] For text of the Foreign Assistance Act of 1961, as amended, see *Legislation on Foreign Relations Through 2004*, vol. I–A.

[5] Sec. 202 added new secs. 547 and 548 to the Foreign Assistance Act of 1961.

TITLE III—NONPROLIFERATION AND EXPORT CONTROL ASSISTANCE

SEC. 301. NONPROLIFERATION AND EXPORT CONTROL ASSISTANCE.

Part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2301 et seq.) is amended by adding at the end the following new chapter: * * *[6]

SEC. 302. NONPROLIFERATION AND EXPORT CONTROL TRAINING IN THE UNITED STATES.

Of the amounts made available for fiscal years 2001 and 2002 under chapter 9 of part II of the Foreign Assistance Act of 1961, as added by section 301, $2,000,000 is authorized to be available each such fiscal year for the purpose of training and education of personnel from friendly countries in the United States.

SEC. 303. SCIENCE AND TECHNOLOGY CENTERS.

(a) AVAILABILITY OF FUNDS.—Of the amounts made available for the fiscal years 2001 and 2002 under chapter 9 of part II of the Foreign Assistance Act of 1961, as added by section 301, $59,000,000 for fiscal year 2001 and $65,000,000 for fiscal year 2002 are authorized to be available for science and technology centers in the independent states of the former Soviet Union.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress, taking into account section 1132 of H. R. 3427 of the One Hundred Sixth Congress (as enacted by section 1000(a)(7) of Public Law 106-113), that the practice of auditing entities receiving funds authorized under this section should be significantly expanded and that the burden of supplying auditors should be spread equitably within the United States Government.

SEC. 304. TRIAL TRANSIT PROGRAM.

(a) ALLOCATION OF FUNDS.—Of the amount made available for fiscal year 2001 under chapter 9 of the Foreign Assistance Act of 1961, as added by section 301, $5,000,000 is authorized to be available to establish a static cargo x-ray facility in Malta, if the Secretary of State first certifies to the appropriate committees of Congress that the Government of Malta has provided adequate assurances that such a facility will be utilized in connection with random cargo inspections by Maltese customs officials of container traffic transiting through the Malta Freeport.

(b) REQUIREMENT OF WRITTEN ASSESSMENT.—In the event that a facility is established in Malta pursuant to subsection (a), the Secretary of State shall submit a written assessment to the appropriate committees of Congress not later than 270 days after such a facility commences operation detailing—

(1) statistics on utilization of the facility by Malta;

(2) the contribution made by the facility to United States nonproliferation and export control objectives; and

(3) the feasibility of establishing comparable facilities in other countries identified by the Secretary of State pursuant to section 583 of the Foreign Assistance Act of 1961, as added by section 301.

[6] Sec. 301 added a new chapter 9, secs. 581 through 585, to the Foreign Assistance Act of 1961.

(c) TREATMENT OF ASSISTANCE.—Assistance under this section shall be considered as assistance under section 583(a) of the Foreign Assistance Act of 1961 (relating to transit interdiction), as added by section 301.

SEC. 305. EXCEPTION TO AUTHORITY TO CONDUCT INSPECTIONS UNDER THE CHEMICAL WEAPONS CONVENTION IMPLEMENTATION ACT OF 1998.

Section 303 of the Chemical Weapons Convention Implementation Act of 1998 (22 U.S.C. 6723) is amended by adding at the end the following new subsection: * * *[7]

TITLE IV—ANTITERRORISM ASSISTANCE

SEC. 401. AUTHORIZATION OF APPROPRIATIONS.

Section 574(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa–4(a)) is amended by striking "$9,840,000" and all that follows through the period and inserting the following: "$72,000,000 for fiscal year 2001 and $73,000,000 for fiscal year 2002.".

TITLE V—INTEGRATED SECURITY ASSISTANCE PLANNING

Subtitle A—Establishment of a National Security Assistance Strategy

SEC. 501.[8] NATIONAL SECURITY ASSISTANCE STRATEGY.

(a) MULTIYEAR PLAN.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter at the time of submission of the congressional presentation materials of the foreign operations appropriations budget request, the Secretary of State should submit to the appropriate committees of Congress a plan setting forth a National Security Assistance Strategy for the United States.

(b) ELEMENTS OF THE STRATEGY.—The National Security Assistance Strategy should—

(1) set forth a multi-year plan for security assistance programs;

(2) be consistent with the National Security Strategy of the United States;

(3) be coordinated with the Secretary of Defense and the Chairman of the Joint Chiefs of Staff;

(4) be prepared, in consultation with other agencies, as appropriate;

(5) identify overarching security assistance objectives, including identification of the role that specific security assistance programs will play in achieving such objectives;

(6) identify a primary security assistance objective, as well as specific secondary objectives, for individual countries;

(7) identify, on a country-by-country basis, how specific resources will be allocated to accomplish both primary and secondary objectives;

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[7] For amended text, see *Legislation on Foreign Relations Through 2004*, vol. II.

[8] 22 U.S.C. 2305. See also title XV of Public Law 107–228 (116 Stat. 1458), particularly secs. 1501 and 1502, beginning at page 438.

(8) discuss how specific types of assistance, such as foreign military financing and international military education and training, will be combined at the country level to achieve United States objectives; and

(9) detail, with respect to each of the paragraphs (1) through (8), how specific types of assistance provided pursuant to the Arms Export Control Act and the Foreign Assistance Act of 1961 are coordinated with United States assistance programs managed by the Department of Defense and other agencies.

(c) COVERED ASSISTANCE.—The National Security Assistance Strategy should cover assistance provided under—

(1) section 23 of the Arms Export Control Act (22 U.S.C. 2763);

(2) chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.); and

(3) section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321i).

Subtitle B—Allocations for Certain Countries

SEC. 511.[9] SECURITY ASSISTANCE FOR NEW NATO MEMBERS.

(a) * * * [Repealed—2002]

(b) * * * [Repealed—2002]

(c) SELECT PRIORITIES.—In providing assistance under this section, the President shall give priority to supporting activities that are consistent with the objectives set forth in the following conditions of the Senate resolution of ratification for the Protocols to the North Atlantic Treaty of 1949 on the Accession of Poland, Hungary, and the Czech Republic:

(1) Condition (1)(A)(v), (vi), and (vii), relating to common threats, the core mission of NATO, and the capacity to respond to common threats.

(2) Condition (1)(B), relating to the fundamental importance of collective defense.

(3) Condition (1)(C), relating to defense planning, command structures, and force goals.

(4) Conditions (4)(B)(i) and (4)(B)(ii), relating to intelligence matters.

SEC. 512.[10] * * * [Repealed—2002]

SEC. 513. ASSISTANCE FOR ISRAEL.

(a) DEFINITIONS.—In this section:

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[9] Sec. 1223(c) of the Security Assistance Act of 2002 (division B of Public Law 107–228; 116 Stat. 1432) repealed sec. 511(a) and (b), and sec. 515. Subsecs. (a) and (b) had provided as follows:

"(a) FOREIGN MILITARY FINANCING.—Of the amounts made available for the fiscal years 2001 and 2002 under section 23 of the Arms Export Control Act (22 U.S.C. 2763), $30,300,000 for fiscal year 2001 and $35,000,000 for fiscal year 2002 are authorized to be available on a grant basis for all of the following countries: the Czech Republic, Hungary, and Poland.

"(b) MILITARY EDUCATION AND TRAINING.—Of the amounts made available for the fiscal years 2001 and 2002 to carry out chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.), $5,100,000 for fiscal year 2001 and $7,000,000 for fiscal year 2002 are authorized to be available for all of the following countries: the Czech Republic, Hungary, and Poland.".

See also sec. 1223 of that Act, page 415.

[10] Sec. 1222(d) of the Security Assistance Act of 2002 (division B of Public Law 107–228; 116 Stat. 1431) repealed sec. 512, which had provided as follows:

(1) ESF ASSISTANCE.—The term "ESF assistance" means assistance under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.), relating to the economic support fund.

(2) FOREIGN MILITARY FINANCING PROGRAM.—The term "Foreign Military Financing Program" means the program authorized by section 23 of the Arms Export Control Act (22 U.S.C. 2763).

(b) ESF ASSISTANCE.—

(1) IN GENERAL.—Of the amounts made available for each of the fiscal years 2002 and 2003[11] for ESF assistance, the amount specified in paragraph (2) for each such fiscal year is authorized to be made available for Israel. Such funds are authorized to be made available on a grant basis as a cash transfer.[12]

(2) COMPUTATION OF AMOUNT.—Subject to subsection (d), the amount referred to in paragraph (1) is equal to—

(A) the amount made available for ESF assistance for Israel for the preceding fiscal year, minus

(B) $120,000,000.

(3)[13] ADDITIONAL ESF ASSISTANCE FOR FISCAL YEAR 2003.—Only for fiscal year 2003, in addition to the amount computed under paragraph (2) for that fiscal year, an additional amount of $200,000,000 is authorized to be made available for ESF assistance for Israel, notwithstanding section 531(e) or 660(a) of the Foreign Assistance Act of 1961, for defensive, nonlethal, antiterrorism assistance, which amount shall be considered, for purposes of subsection (d), as an amount appropriated by an Act making supplemental appropriations.

(c) FMF PROGRAM.—

(1) IN GENERAL.—Of the amount made available for each of the fiscal years 2002 and 2003[14] for assistance under the Foreign Military Financing Program, the amount specified in paragraph (2) for each such fiscal year is authorized to be made available on a grant basis for Israel.

"SEC. 512. INCREASED TRAINING ASSISTANCE FOR GREECE AND TURKEY.

"(a) IN GENERAL.—Of the amounts made available for the fiscal years 2001 and 2002 to carry out chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.)—

"(1) $1,000,000 for fiscal year 2001 and $1,000,000 for fiscal year 2002 are authorized to be available for Greece; and

"(2) $2,500,000 for fiscal year 2001 and $2,500,000 for fiscal year 2002 are authorized to be available for Turkey.

"(b) USE FOR PROFESSIONAL MILITARY EDUCATION.—Of the amounts available under paragraphs (1) and (2) of subsection (a) for fiscal year 2002, $500,000 of each such amount should be available for purposes of professional military education.

"(c) USE FOR JOINT TRAINING.—It is the sense of the Congress that, to the maximum extent practicable, amounts available under subsection (a) that are used in accordance with subsection (b) should be used for joint training of Greek and Turkish officers.".

See also sec. 1222(a), (b), and (c) of that Act, page 414.

[11] Sec. 1221(a)(1)(A)(i) of the Security Assistance Act of 2002 (division B of Public Law 107–228; 116 Stat. 1430) struck out "2001 and 2002" and inserted in lieu thereof "2002 and 2003".

[12] Sec. 1221(a)(1)(A)(ii) of the Security Assistance Act of 2002 (division B of Public Law 107–228; 116 Stat. 1430) inserted "Such funds are authorized to be made available on a grant basis as a cash transfer.".

[13] Sec. 1221(a)(1)(B) of the Security Assistance Act of 2002 (division B of Public Law 107–228; 116 Stat. 1430) added para. (3).

[14] Sec. 1221(a)(2) of the Security Assistance Act of 2002 (division B of Public Law 107–228; 116 Stat. 1430) struck out "2001 and 2002" and inserted in lieu thereof "2002 and 2003".

(2) COMPUTATION OF AMOUNT.—Subject to subsection (d), the amount referred to in paragraph (1) is equal to—

(A) the amount made available for assistance under the Foreign Military Financing Program for Israel for the preceding fiscal year, plus

(B) $60,000,000.

(3)[15] DISBURSEMENT OF FUNDS.—Funds authorized to be available for Israel under subsection (b)(1) and paragraph (1) of this subsection for fiscal years 2002 and 2003 shall be disbursed not later than 30 days after the date of enactment of an Act making appropriations for foreign operations, export financing, and related programs for fiscal year 2002, and not later than 30 days after the date of enactment of an Act making appropriations for foreign operations, export financing, and related programs for fiscal year 2003, or October 31 of the respective fiscal year, whichever is later.

(4) AVAILABILITY OF FUNDS FOR ADVANCED WEAPONS SYSTEMS.—To the extent the Government of Israel requests that funds be used for such purposes, grants made available for Israel out of funds authorized to be available under paragraph (1) for Israel for fiscal years 2002 and 2003[16] shall, as agreed by Israel and the United States, be available for advanced weapons systems, of which not less than $535,000,000 for fiscal year 2002 and not less than $550,000,000 for fiscal year 2003[17] shall be available for the procurement in Israel of defense articles and defense services, including research and development.

(d) EXCLUSION OF RESCISSIONS AND SUPPLEMENTAL APPROPRIATIONS.—For purposes of this section, the computation of amounts made available for a fiscal year shall not take into account any amount rescinded by an Act or any amount appropriated by an Act making supplemental appropriations for a fiscal year.

SEC. 514. ASSISTANCE FOR EGYPT.

(a) DEFINITIONS.—In this section:

(1) ESF ASSISTANCE.—The term "ESF assistance" means assistance under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.), relating to the economic support fund.

(2) FOREIGN MILITARY FINANCING PROGRAM.—The term "Foreign Military Financing Program" means the program authorized by section 23 of the Arms Export Control Act (22 U.S.C. 2763).

(b) ESF ASSISTANCE.—

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[15] Sec. 1221(a)(3) of the Security Assistance Act of 2002 (division B of Public Law 107–228; 116 Stat. 1430) amended and restated para. (3). It previously read as follows:

"(3) DISBURSEMENT OF FUNDS.—Funds authorized to be available for Israel under subsection (b)(1) and paragraph (1) of this subsection for fiscal year 2001 shall be disbursed not later than 30 days after the date of the enactment of an Act making appropriations for foreign operations, export financing, and related programs for fiscal year 2001, or October 31, 2000, whichever date is later.".

[16] Sec. 1221(a)(4)(A) of the Security Assistance Act of 2002 (division B of Public Law 107–228; 116 Stat. 1430) struck out "fiscal year 2001" and inserted in lieu thereof "fiscal years 2002 and 2003".

[17] Sec. 1221(a)(4)(B) of the Security Assistance Act of 2002 (division B of Public Law 107–228; 116 Stat. 1430) struck out "$520,000,000" and inserted in lieu thereof "$535,000,000 for fiscal year 2002 and not less than $550,000,000 for fiscal year 2003".

(1) IN GENERAL.—Of the amounts made available for each of the fiscal years 2002 and 2003[18] for ESF assistance, the amount specified in paragraph (2) for each such fiscal year is authorized to be made available for Egypt.

(2) COMPUTATION OF AMOUNT.—Subject to subsection (d), the amount referred to in paragraph (1) is equal to—

(A) the amount made available for ESF assistance for Egypt during the preceding fiscal year, minus

(B) $40,000,000.

(c) FMF PROGRAM.—Of the amount made available for each of the fiscal years 2002 and 2003[18] for assistance under the Foreign Military Financing Program, $1,300,000,000 is authorized to be made available on a grant basis for Egypt.

(d) EXCLUSION OF RESCISSIONS AND SUPPLEMENTAL APPROPRIATIONS.—For purposes of this section, the computation of amounts made available for a fiscal year shall not take into account any amount rescinded by an Act or any amount appropriated by an Act making supplemental appropriations for a fiscal year.

(e)[19] DISBURSEMENT OF FUNDS.—Funds estimated to be outlayed for Egypt under subsection (c) during fiscal years 2002 and 2003 shall be disbursed to an interest-bearing account for Egypt in the Federal Reserve Bank of New York not later than 30 days after the date of enactment of an Act making appropriations for foreign operations, export financing, and related programs for fiscal year 2002, and not later than 30 days after the date of enactment of an Act making appropriations for foreign operations, export financing, and related programs for fiscal year 2003, or by October 31 of the respective fiscal year, whichever is later, provided that—

(1) withdrawal of funds from such account shall be made only on authenticated instructions from the Defense Finance and Accounting Service of the Department of Defense;

(2) in the event such account is closed, the balance of the account shall be transferred promptly to the appropriations account for the Foreign Military Financing Program.

(3) none of the interest accrued by such account should be obligated unless the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on International Relations of the House of Representatives are notified.

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[18] Sec. 1221(b)(1) of the Security Assistance Act of 2002 (division B of Public Law 107–228; 116 Stat. 1430) struck out "2001 and 2002" each place it appeared in sec. 514 and inserted in lieu thereof "2002 and 2003".

[19] Sec. 1221(b)(2) of the Security Assistance Act of 2002 (division B of Public Law 107–228; 116 Stat. 1430) amended and restated subsec. (e) through para. (2). It previously read as follows:

"(e) DISBURSEMENT OF FUNDS.—Funds estimated to be outlayed for Egypt under subsection (c) during fiscal year 2001 shall be disbursed to an interest-bearing account for Egypt in the Federal Reserve Bank of New York within 30 days of the date of the enactment of this Act, or by October 31, 2000, whichever is later, provided that—

"(1) withdrawal of funds from such account shall be made only on authenticated instructions from the Defense Finance and Accounting Service of the Department of Defense;

"(2) in the event such account is closed, the balance of the account shall be transferred promptly to the appropriations account for the Foreign Military Financing Program; and".

[20] Sec. 1223(c) of the Security Assistance Act of 2002 (division B of Public Law 107–228; 116 Stat. 1432) repealed sec. 511(a) and (b) and sec. 515. Previously, sec. 5(b) of Public Law 107–187 (116 Stat. 593) struck out paras. (1), (5), (6), (7), and (8) of sec. 515. Sec. 515, prior to amendment and repeal, had read as following:

Continued

SEC. 515.[20] **SECURITY ASSISTANCE FOR CERTAIN COUNTRIES.** * * * [Repealed—2002]

SEC. 516. BORDER SECURITY AND TERRITORIAL INDEPENDENCE.

(a) GUUAM COUNTRIES AND ARMENIA.—For the purpose of carrying out section 499C of the Foreign Assistance Act of 1961 and assisting GUUAM countries and Armenia to strengthen national control of their borders and to promote the independence and territorial sovereignty of such countries, the following amounts are authorized to be made available for fiscal years 2001 and 2002:

(1) $5,000,000 for fiscal year 2001 and $20,000,000 for fiscal year 2002 are of the amounts made available under section 23 of the Arms Export Control Act (22 U.S.C. 2763).

(2) $2,000,000 for fiscal year 2001 and $10,000,000 for fiscal year 2002 of the amounts made available under chapter 9 of part II of the Foreign Assistance Act of 1961, as added by section 301.

(3) $500,000 for fiscal year 2001 and $5,000,000 for fiscal year 2002 of the amounts made available to carry out chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.).

(4) $1,000,000 for fiscal year 2001 and $2,000,000 for fiscal year 2002 of the amounts made available to carry out chapter 8 of part II of the Foreign Assistance Act.

"**SEC. 515. SECURITY ASSISTANCE FOR CERTAIN COUNTRIES.**

"(a) FOREIGN MILITARY FINANCING.—Of the amounts made available for the fiscal years 2001 and 2002 under section 23 of the Arms Export Control Act (22 U.S.C. 2763)—

"(1) $18,200,000 for fiscal year 2001 and $20,500,000 for fiscal year 2002 are authorized to be available on a grant basis for all of the following countries: Estonia, Latvia, and Lithuania;

"(2) $2,000,000 for fiscal year 2001 and $5,000,000 for fiscal year 2002 are authorized to be available on a grant basis for the Philippines;

"(3) $4,500,000 for fiscal year 2001 and $5,000,000 for fiscal year 2002 are authorized to be available on a grant basis for Georgia;

"(4) $3,000,000 for fiscal year 2001 and $3,500,000 for fiscal year 2002 are authorized to be available on a grant basis for Malta;

"(5) $3,500,000 for fiscal year 2001 and $4,000,000 for fiscal year 2002 are authorized to be available on a grant basis for Slovenia;

"(6) $8,400,000 for fiscal year 2001 and $8,500,000 for fiscal year 2002 are authorized to be available on a grant basis for Slovakia;

"(7) $11,000,000 for fiscal year 2001 and $11,100,000 for fiscal year 2002 are authorized to be available on a grant basis for Romania;

"(8) $8,500,000 for fiscal year 2001 and $8,600,000 for fiscal year 2002 are authorized to be available on a grant basis for Bulgaria; and

"(9) $100,000,000 for fiscal year 2001 and $105,000,000 for fiscal year 2002 are authorized to be available on a grant basis for Jordan.

"(b) IMET.—Of the amounts made available for the fiscal years 2001 and 2002 to carry out chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.)—

"(1) $2,300,000 for fiscal year 2001 and $4,000,000 for fiscal year 2002 are authorized to be available for all of the following countries: Estonia, Latvia, and Lithuania;

"(2) $1,400,000 for fiscal year 2001 and $1,500,000 for fiscal year 2002 are authorized to be available for the Philippines;

"(3) $475,000 for fiscal year 2001 and $1,000,000 for fiscal year 2002 are authorized to be available for Georgia;

"(4) $200,000 for fiscal year 2001 and $1,000,000 for fiscal year 2002 are authorized to be available for Malta;

"(5) $700,000 for fiscal year 2001 and $1,000,000 for fiscal year 2002 are authorized to be available for Slovenia;

"(6) $700,000 for fiscal year 2001 and $1,000,000 for fiscal year 2002 are authorized to be available for Slovakia;

"(7) $1,300,000 for fiscal year 2001 and $1,500,000 for fiscal year 2002 are authorized to be available for Romania; and

"(8) $1,100,000 for fiscal year 2001 and $1,200,000 for fiscal year 2002 are authorized to be available for Bulgaria.".

(b) GUUAM COUNTRIES DEFINED.—In this section, the term "GUUAM countries" means the group of countries that signed a protocol on quadrilateral cooperation on November 25, 1997, together with Uzbekistan.

TITLE VI—TRANSFERS OF NAVAL VESSELS

SEC. 601. AUTHORITY TO TRANSFER NAVAL VESSELS TO CERTAIN FOREIGN COUNTRIES.

(a) BRAZIL.—The President is authorized to transfer to the Government of Brazil two "THOMASTON" class dock landing ships ALAMO (LSD 33) and HERMITAGE (LSD 34), and four "GARCIA" class frigates BRADLEY (FF 1041), DAVIDSON (FF 1045), SAMPLE (FF 1048) and ALBERT DAVID (FF 1050). Such transfers shall be on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j).

(b) CHILE.—The President is authorized to transfer to the Government of the Chile two "OLIVER HAZARD PERRY" class guided missile frigates WADSWORTH (FFG 9), and ESTOCIN (FFG 15). Such transfers shall be on a combined lease-sale basis under sections 61 and 21 of the Arms Export Control Act (22 U.S.C. 2796, 2761).

(c) GREECE.—The President is authorized to transfer to the Government of Greece two "KNOX" class frigates VREELAND (FF 1068), and TRIPPE (FF 1075). Such transfers shall be on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j).

(d) TURKEY.—The President is authorized to transfer to the Government of Turkey two "OLIVER HAZARD PERRY" class guided missile frigates JOHN A. MOORE (FFG 19), and FLATLEY (FFG 21). Such transfers shall be on a combined lease-sale basis under sections 61 and 21 of the Arms Export Control Act (22 U.S.C. 2796, 2761). The authority granted by this subsection is in addition to that granted under section 1018(a)(9) of Public Law 106–65.

SEC. 602. INAPPLICABILITY OF AGGREGATE ANNUAL LIMITATION ON VALUE OF TRANSFERRED EXCESS DEFENSE ARTICLES.

The value of naval vessels authorized under section 601 to be transferred on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) shall not be included in the aggregate annual value of transferred excess defense articles which is subject to the aggregate annual limitation set forth in section 516(g) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(g)).

SEC. 603. COSTS OF TRANSFERS.

Any expense of the United States in connection with a transfer authorized by this title shall be charged to the recipient.

SEC. 604. CONDITIONS RELATING TO COMBINED LEASE-SALE TRANSFERS.

A transfer of a vessel on a combined lease-sale basis authorized by section 601 shall be made in accordance with the following requirements:

(1) The President may initially transfer the vessel by lease, with lease payments suspended for the term of the lease, if the country entering into the lease for the vessel simultaneously

enters into a foreign military sales agreement for the transfer of title to the vessel.

(2) The President may not deliver to the purchasing country title to the vessel until the purchase price of the vessel under such a foreign military sales agreement is paid in full.

(3) Upon payment of the purchase price in full under such a sales agreement and delivery of title to the recipient country, the President shall terminate the lease.

(4) If the purchasing country fails to make full payment of the purchase price in accordance with the sales agreement by the date required under the sales agreement—

(A) the sales agreement shall be immediately terminated;

(B) the suspension of lease payments under the lease shall be vacated; and

(C) the United States shall be entitled to retain all funds received on or before the date of the termination under the sales agreement, up to the amount of the lease payments due and payable under the lease and all other costs required by the lease to be paid to that date.

(5) If a sales agreement is terminated pursuant to paragraph (4), the United States shall not be required to pay any interest to the recipient country on any amount paid to the United States by the recipient country under the sales agreement and not retained by the United States under the lease.

SEC. 605. FUNDING OF CERTAIN COSTS OF TRANSFERS.

There are authorized to be appropriated to the Defense Vessels Transfer Program Account such funds as may be necessary to cover the costs (as defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661a)) of the lease-sale transfers authorized by section 601. Funds authorized to be appropriated under the preceding sentence for the purpose described in that sentence may not be available for any other purpose.

SEC. 606. REPAIR AND REFURBISHMENT IN UNITED STATES SHIPYARDS.

To the maximum extent practicable, the President shall require, as a condition of the transfer of a vessel under section 601, that the country to which the vessel is transferred will have such repair or refurbishment of the vessel as is needed, before the vessel joins the naval forces of that country, performed at a shipyard located in the United States, including a United States Navy shipyard.

SEC. 607. SENSE OF THE CONGRESS REGARDING TRANSFER OF NAVAL VESSELS ON A GRANT BASIS.

It is the sense of the Congress that naval vessels authorized under section 601 to be transferred to foreign countries on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) should be so transferred only if the United States receives appropriate benefits from such countries for transferring the vessel on a grant basis.

SEC. 608. EXPIRATION OF AUTHORITY.

The authority granted by section 601 shall expire 2 years after the date of the enactment of this Act.

TITLE VII—MISCELLANEOUS PROVISIONS

SEC. 701. UTILIZATION OF DEFENSE ARTICLES AND DEFENSE SERVICES.

Section 502 of the Foreign Assistance Act of 1961 (22 U.S.C. 2302) is amended in the first sentence by inserting "(including for antiterrorism and nonproliferation purposes)" after "internal security".

SEC. 702. ANNUAL MILITARY ASSISTANCE REPORT.

Section 655(b)(3) of the Foreign Assistance Act of 1961 (22 U.S.C. 2415(b)(3)) is amended by inserting before the period at the end the following: "and, if so, a specification of those defense articles that were exported during the fiscal year covered by the report".

SEC. 703. REPORT ON GOVERNMENT-TO-GOVERNMENT ARMS SALES END-USE MONITORING PROGRAM.

Not later than 180 days after the date of the enactment of this Act, the President shall prepare and transmit to the appropriate committees of Congress a report that contains a summary of the status of the efforts of the Defense Security Cooperation Agency to implement the End-Use Monitoring Enhancement Plan relating to government-to-government transfers of defense articles, defense services, and related technologies.

SEC. 704.[21] MTCR REPORT TRANSMITTALS.

For purposes of section 71(d) of the Arms Export Control Act (22 U.S.C. 2797(d)), the requirement that reports under that section shall be transmitted to the Congress shall be considered to be a requirement that such reports shall be transmitted to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations and the Committee on Banking, Housing and Urban Affairs of the Senate.

SEC. 705. STINGER MISSILES IN THE PERSIAN GULF REGION.

(a) PROHIBITION.—Notwithstanding any other provision of law and except as provided in subsection (b), the United States may not sell or otherwise make available under the Arms Export Control Act or chapter 2 of part II of the Foreign Assistance Act of 1961 any Stinger ground-to-air missiles to any country bordering the Persian Gulf.

(b) ADDITIONAL TRANSFERS AUTHORIZED.—In addition to other defense articles authorized to be transferred by section 581 of the Foreign Operations, Export Financing, and Related Programs Appropriation Act, 1990, the United States may sell or make available, under the Arms Export Control Act or chapter 2 of part II of the Foreign Assistance Act of 1961, Stinger ground-to-air missiles to any country bordering the Persian Gulf in order to replace, on a one-for-one basis, Stinger missiles previously furnished to such country if the Stinger missiles to be replaced are nearing the scheduled expiration of their shelf-life.

SEC. 706. SENSE OF THE CONGRESS REGARDING EXCESS DEFENSE ARTICLES.

It is the sense of the Congress that the President should make expanded use of the authority provided under section 21(a) of the

[21] 22 U.S.C. 2797 note.

Arms Export Control Act to sell excess defense articles by utilizing the flexibility afforded by section 47 of such Act to ascertain the "market value" of excess defense articles.

SEC. 707. EXCESS DEFENSE ARTICLES FOR MONGOLIA.

(a) USES FOR WHICH FUNDS ARE AVAILABLE.—Notwithstanding section 516(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(e)), during the fiscal years 2001 and 2002, funds available to the Department of Defense may be expended for crating, packing, handling, and transportation of excess defense articles transferred under the authority of section 516 of that Act to Mongolia.

(b) CONTENT OF CONGRESSIONAL NOTIFICATION.—Each notification required to be submitted under section 516(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(f)) with respect to a proposed transfer of a defense article described in subsection (a) shall include an estimate of the amount of funds to be expended under subsection (a) with respect to that transfer.

SEC. 708.[22] SPACE COOPERATION WITH RUSSIAN PERSONS.

(a) ANNUAL CERTIFICATION.—

(1) REQUIREMENT.—The President shall submit each year to the appropriate committees of Congress, with respect to each Russian person described in paragraph (2), a certification that the reports required to be submitted to Congress during the preceding calendar year under section 2 of the Iran Nonproliferation Act of 2000 (Public Law 106–178)[23] do not identify that person on account of a transfer to Iran of goods, services, or technology described in section 2(a)(1)(B) of such Act.

(2) APPLICABILITY.—The certification requirement under paragraph (1) applies with respect to each Russian person that, as of the date of the certification, is a party to an agreement relating to commercial cooperation on MTCR equipment or technology with a United States person pursuant to an arms export license that was issued at any time since January 1, 2000.

(3) EXEMPTION.—No activity or transfer which specifically has been the subject of a Presidential determination pursuant to section 5(a)(1), (2), or (3) of the Iran Nonproliferation Act of 2000 (Public Law 106-178) shall cause a Russian person to be considered as having been identified in the reports submitted during the preceding calendar year under section 2 of that Act for the purposes of the certification required under paragraph (1).

(4) COMMENCEMENT AND TERMINATION OF REQUIREMENT.—

(A) TIMES FOR SUBMISSION.—The President shall submit—

(i) the first certification under paragraph (1) not later than 60 days after the date of the enactment of this Act; and

(ii) each annual certification thereafter on the anniversary of the first submission.

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

[23] For text of the Iran Nonproliferation Act, see *Legislation on Foreign Relations Through 2004*, vol. II.

(B) TERMINATION OF REQUIREMENT.—No certification is required under paragraph (1) after termination of cooperation under the specific license, or 5 years after the date on which the first certification is submitted, whichever is the earlier date.

(b) TERMINATION OF EXISTING LICENSES.—If, at any time after the issuance of a license under section 36(c) of the Arms Export Control Act relating to the use, development, or co-production of commercial rocket engine technology with a foreign person, the President determines that the foreign person has engaged in any action described in section 73(a)(1) of the Arms Export Control Act (22 U.S.C. 2797b(a)(1)) since the date the license was issued, the President may terminate the license.

(c) REPORT ON EXPORT LICENSING OF MTCR ITEMS UNDER $50,000,000.—Section 71(d) of the Arms Export Control Act (22 U.S.C. 2797(d)) is amended by striking "Within 15 days" and all that follows through "MTCR Annex," and inserting "Within 15 days after the issuance of a license (including any brokering license) for the export of items valued at less than $50,000,000 that are controlled under this Act pursuant to United States obligations under the Missile Technology Control Regime and are goods or services that are intended to support the design, utilization, development, or production of a space launch vehicle system listed in Category I of the MTCR Annex,".

(d) DEFINITIONS.—In this section:

(1) FOREIGN PERSON.—The term "foreign person" has the meaning given the term in section 74(7) of the Arms Export Control Act (22 U.S.C. 2797c(7)).

(2) MTCR EQUIPMENT OR TECHNOLOGY.—The term "MTCR equipment or technology" has the meaning given the term in section 74(5) of the Arms Export Control Act (22 U.S.C. 2797c(5)).

(3) PERSON.—The term "person" has the meaning given the term in section 74(8) of the Arms Export Control Act (22 U.S.C. 2797c(8)).

(4) UNITED STATES PERSON.—The term "United States person" has the meaning given the term in section 74(6) of the Arms Export Control Act (22 U.S.C. 2797c(6)).

SEC. 709. SENSE OF THE CONGRESS RELATING TO MILITARY EQUIPMENT FOR THE PHILIPPINES.

(a) IN GENERAL.—It is the sense of the Congress that the United States Government should work with the Government of the Philippines to enable that Government to procure military equipment that can be used to upgrade the capabilities and to improve the quality of life of the armed forces of the Philippines.

(b) MILITARY EQUIPMENT.—Military equipment described in subsection (a) should include—

(1) naval vessels, including amphibious landing crafts, for patrol, search-and-rescue, and transport;

(2) F–5 aircraft and other aircraft that can assist with reconnaissance, search-and-rescue, and resupply;

(3) attack, transport, and search-and-rescue helicopters; and

(4) vehicles and other personnel equipment.

SEC. 710. WAIVER OF CERTAIN COSTS.

Notwithstanding any other provision of law, the President may waive the requirement to impose an appropriate charge for a proportionate amount of any nonrecurring costs of research, development, and production under section 21(e)(1)(B) of the Arms Export Control Act (22 U.S.C. 2761(e)(1)(B)) for the November 1999 sale of five UH–60L helicopters to the Republic of Colombia in support of counternarcotics activities.

(4) Security Assistance Act of 1999

Title XII of H.R. 3427 [Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001; enacted by reference in sec. 1000(a)(7) of Public Law 106–113; H.R. 3194], 113 Stat. 1501, approved November 29, 1999

AN ACT To authorize appropriations for the Department of State for fiscal years 2000 and 2001; to provide for enhanced security at United States diplomatic facilities; to provide for certain arms control, nonproliferation, and other national security measures; to provide for reform of the United Nations; and for other purposes.

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

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TITLE XII—SECURITY ASSISTANCE

SEC. 1201.[1] SHORT TITLE.

This title may be cited as the "Security Assistance Act of 1999".

Subtitle A—Transfers of Excess Defense Articles

SEC. 1211. EXCESS DEFENSE ARTICLES FOR CENTRAL AND SOUTHERN EUROPEAN COUNTRIES.

(a) TRANSPORTATION AND RELATED COSTS. * * *[2]

(b) EXCESS DEFENSE ARTICLES FOR GREECE AND TURKEY. * * *[3]

SEC. 1212. EXCESS DEFENSE ARTICLES FOR CERTAIN OTHER COUNTRIES.

(a) USES FOR WHICH FUNDS ARE AVAILABLE.—Notwithstanding section 516(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(e)), during each of the fiscal years 2000 and 2001, funds available to the Department of Defense may be expended for crating, packing, handling, and transportation of excess defense articles transferred under the authority of section 516 of that Act to Estonia, Georgia, Hungary, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, Poland, Slovakia, Ukraine, and Uzbekistan.

(b) CONTENT OF CONGRESSIONAL NOTIFICATION.—Each notification required to be submitted under section 516(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(f)) with respect to a proposed transfer of a defense article described in subsection (a) shall include an estimate of the amount of funds to be expended under subsection (a) with respect to that transfer.

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

[2] Sec. 1211(a) amended section 105 of Public Law 104–164; see page 154.

[3] Sec. 1211(b) amended sec. 516(b)(2) of the Foreign Assistance Act of 1961; see *Legislation on Foreign Relations Through 2004*, vol. I–A.

[4] Sec. 1213 amended sec. 516(g)(1) of the Foreign Assistance Act of 1961.

SEC. 1213. INCREASE IN ANNUAL LIMITATION ON TRANSFER OF EXCESS DEFENSE ARTICLES. * * *[4]

Subtitle B—Foreign Military Sales Authorities

SEC. 1221. TERMINATION OF FOREIGN MILITARY TRAINING. * * *[5]

SEC. 1222. SALES OF EXCESS COAST GUARD PROPERTY. * * *[6]

SEC. 1223. COMPETITIVE PRICING FOR SALES OF DEFENSE ARTICLES. * * *[7]

SEC. 1224. NOTIFICATION OF UPGRADES TO DIRECT COMMERCIAL SALES. * * *[8]

SEC. 1225. UNAUTHORIZED USE OF DEFENSE ARTICLES. * * *[9]

Subtitle C—Stockpiling of Defense Articles for Foreign Countries

SEC. 1231. ADDITIONS TO UNITED STATES WAR RESERVE STOCKPILES FOR ALLIES. * * *[10]

SEC. 1232. TRANSFER OF CERTAIN OBSOLETE OR SURPLUS DEFENSE ARTICLES IN THE WAR RESERVES STOCKPILE FOR ALLIES.

(a) ITEMS IN THE KOREAN STOCKPILE.—

(1) IN GENERAL.—Notwithstanding section 514 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321h), the President is authorized to transfer to the Republic of Korea, in return for concessions to be negotiated by the Secretary of Defense, with the concurrence of the Secretary of State, any or all of the items described in paragraph (2).

(2) COVERED ITEMS.—The items referred to in paragraph (1) are munitions, equipment, and material such as tanks, trucks, artillery, mortars, general purpose bombs, repair parts, ammunition, barrier material, and ancillary equipment, if such items are—

(A) obsolete or surplus items;

(B) in the inventory of the Department of Defense;

(C) intended for use as reserve stocks for the Republic of Korea; and

(D) as of the date of the enactment of this Act, located in a stockpile in the Republic of Korea.

(b) ITEMS IN THE THAILAND STOCKPILE.—

(1) IN GENERAL.—Notwithstanding section 514 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321h), the President is authorized to transfer to Thailand, in return for concessions to be negotiated by the Secretary of Defense, with the concurrence of the Secretary of State, any or all of the items described in paragraph (2).

(2) COVERED ITEMS.—The items referred to in paragraph (1) are munitions, equipment, and material such as tanks, trucks,

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[5] Sec. 1221 amended sec. 617 of the Foreign Assistance Act of 1961.

[6] Sec. 1222 amended sec. 21(a)(1) of the Arms Export Control Act; see *Legislation on Foreign Relations Through 2004*, vol. I–A.

[7] Sec. 1223 amended sec. 22(d) of the Arms Export Control Act.

[8] Sec. 1224 amended sec. 36(c) of the Arms Export Control Act.

[9] Sec. 1225 amended sec. 3 of the Arms Export Control Act.

[10] Sec. 1231 amended sec. 514(b) of the Foreign Assistance Act of 1961.

artillery, mortars, general purpose bombs, repair parts, ammunition, barrier material, and ancillary equipment, if such items are—

(A) obsolete or surplus items;

(B) in the inventory of the Department of Defense;

(C) intended for use as reserve stocks for Thailand; and

(D) as of the date of the enactment of this Act, located in a stockpile in Thailand.

(c) VALUATION OF CONCESSIONS.—The value of concessions negotiated pursuant to subsections (a) and (b) shall be at least equal to the fair market value of the items transferred. The concessions may include cash compensation, services, waiver of charges otherwise payable by the United States, and other items of value.

(d) PRIOR NOTIFICATIONS OF PROPOSED TRANSFERS.—Not less than 30 days before making a transfer under the authority of this section, the President shall transmit to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives a detailed notification of the proposed transfer, which shall include an identification of the items to be transferred and the concessions to be received.

(e) TERMINATION OF AUTHORITY.—No transfer may be made under the authority of this section more than 3 years after the date of the enactment of this Act.

Subtitle D—Defense Offsets Disclosure [11]

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Subtitle E—Automated Export System Relating to Export Information [12]

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Subtitle F—International Arms Sales Code of Conduct Act of 1999 [13]

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Subtitle G—Transfer of Naval Vessels to Certain Foreign Countries

SEC. 1271. AUTHORITY TO TRANSFER NAVAL VESSELS.

(a) INAPPLICABILITY OF AGGREGATE ANNUAL LIMITATION ON VALUE OF TRANSFERRED EXCESS DEFENSE ARTICLES.—The value of a vessel transferred to another country on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) pursuant to authority provided by section 1018(a) of the National Defense Authorization Act for Fiscal Year 2000 shall not be counted for the purposes of section 516(g) of the Foreign Assistance Act

[11] Subtitle D, the Defense Offsets Disclosure Act of 1999, may be found beginning at page 469.

[12] Subtitle E, the Proliferation Prevention Enhancement Act of 1999, may be found in *Legislation on Foreign Relations Through 2004*, vol. II.

[13] Subtitle F, the International Arms Sales Code of Conduct Act of 1999, may be found beginning at page 475.

of 1961 in the aggregate value of excess defense articles transferred to countries under that section in any fiscal year.

(b) TECHNICAL AND CONFORMING AMENDMENTS. * * *[14]

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[14] Subsec. (b) amended sec. 1018 of the National Defense Authorization Act for Fiscal Year 2000.

(5) Defense Offsets Disclosure Act of 1999

Subtitle D of title XII of H.R. 3427 [Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001; enacted by reference in sec. 1000(a)(7) of Public Law 106–113; H.R. 3194], 113 Stat. 1501, approved November 29, 1999

AN ACT To authorize appropriations for the Department of State for fiscal years 2000 and 2001; to provide for enhanced security at United States diplomatic facilities; to provide for certain arms control, nonproliferation, and other national security measures; to provide for reform of the United Nations; and for other purposes.

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

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Subtitle D—Defense Offsets Disclosure

SEC. 1241. SHORT TITLE.

This subtitle may be cited as the "Defense Offsets Disclosure Act of 1999".

SEC. 1242. FINDINGS AND DECLARATION OF POLICY.

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

(1) A fair business environment is necessary to advance international trade, economic stability, and development worldwide, is beneficial for American workers and businesses, and is in the United States national interest.

(2) In some cases, mandated offset requirements can cause economic distortions in international defense trade and undermine fairness and competitiveness, and may cause particular harm to small- and medium-sized businesses.

(3) The use of offsets may lead to increasing dependence on foreign suppliers for the production of United States weapons systems.

(4) The offset demands required by some purchasing countries, including some close allies of the United States, equal or exceed the value of the base contract they are intended to offset, mitigating much of the potential economic benefit of the exports.

(5) Offset demands often unduly distort the prices of defense contracts.

(6) In some cases, United States contractors are required to provide indirect offsets which can negatively impact nondefense industrial sectors.

(7) Unilateral efforts by the United States to prohibit offsets may be impractical in the current era of globalization and would severely hinder the competitiveness of the United States defense industry in the global market.

(8) The development of global standards to manage and restrict demands for offsets would enhance United States efforts to mitigate the negative impact of offsets.

(b) DECLARATION OF POLICY.—It is the policy of the United States to monitor the use of offsets in international defense trade, to promote fairness in such trade, and to ensure that foreign participation in the production of United States weapons systems does not harm the economy of the United States.

SEC. 1243. DEFINITIONS.

In this subtitle:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means—

(A) the Committee on Foreign Relations of the Senate; and

(B) the Committee on International Relations of the House of Representatives.

(2) G–8.—The term "G–8" means the group consisting of France, Germany, Japan, the United Kingdom, the United States, Canada, Italy, and Russia established to facilitate economic cooperation among the eight major economic powers.

(3) OFFSET.—The term "offset" means the entire range of industrial and commercial benefits provided to foreign governments as an inducement or condition to purchase military goods or services, including benefits such as coproduction, licensed production, subcontracting, technology transfer, in-country procurement, marketing and financial assistance, and joint ventures.

(4) TRANSATLANTIC ECONOMIC PARTNERSHIP.—The term "Transatlantic Economic Partnership" means the joint commitment made by the United States and the European Union to reinforce their close relationship through an initiative involving the intensification and extension of multilateral and bilateral cooperation and common actions in the areas of trade and investment.

(5) WASSENAAR ARRANGEMENT.—The term "Wassenaar Arrangement" means the multilateral export control regime in which the United States participates that seeks to promote transparency and responsibility with regard to transfers of conventional armaments and sensitive dual-use items.

(6) WORLD TRADE ORGANIZATION.—The term "World Trade Organization" means the organization established pursuant to the WTO Agreement.

(7) WTO AGREEMENT.—The term "WTO Agreement" means the Agreement Establishing the World Trade Organization entered into on April 15, 1994.

SEC. 1244. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the executive branch should pursue efforts to address trade fairness by establishing reasonable, business-friendly standards for the use of offsets in international business transactions between the United States and its trading partners and competitors;

(2) the Secretary of Defense, the Secretary of State, the Secretary of Commerce, and the United States Trade Representative, or their designees, should raise with other industrialized nations at every suitable venue the need for transparency and reasonable standards to govern the role of offsets in international defense trade;

(3) the United States Government should enter into discussions regarding the establishment of multilateral standards for the use of offsets in international defense trade through the appropriate multilateral fora, including such organizations as the Transatlantic Economic Partnership, the Wassenaar Arrangement, the G–8, and the World Trade Organization; and

(4) the United States Government, in entering into the discussions described in paragraph (3), should take into account the distortions produced by the provision of other benefits and subsidies, such as export financing, by various countries to support defense trade.

SEC. 1245. REPORTING OF OFFSET AGREEMENTS. * * *[1]

SEC. 1246. EXPANDED PROHIBITION ON INCENTIVE PAYMENTS. * * *[2]

SEC. 1247. ESTABLISHMENT OF REVIEW COMMISSION.

(a) IN GENERAL.—There is established a National Commission on the Use of Offsets in Defense Trade (in this section referred to as the "Commission") to address all aspects of the use of offsets in international defense trade.

(b) COMMISSION MEMBERSHIP.—Not later than 120 days after the date of enactment of this Act, the President, with the concurrence of the Majority and Minority Leaders of the Senate and the Speaker and Minority Leader of the House of Representatives, shall appoint 11 individuals to serve as members of the Commission. Commission membership shall include—

(1) representatives from the private sector, including—

(A) one each from—

(i) a labor organization,

(ii) a United States defense manufacturing company dependent on foreign sales,

(iii) a United States company dependent on foreign sales that is not a defense manufacturer, and

(iv) a United States company that specializes in international investment, and

(B) two members from academia with widely recognized expertise in international economics; and

(2) five members from the executive branch, including a member from—

(A) the Office of Management and Budget,

(B) the Department of Commerce,

(C) the Department of Defense,

(D) the Department of State, and

(E) the Department of Labor.

The member designated from the Office of Management and Budget shall serve as Chairperson of the Commission. The President

[1] Sec. 1245 amended sec. 36 of the Arms Export Control Act; see *Legislation on Foreign Relations Through 2004*, vol. I–A.

[2] Sec. 1246 amended sec. 39A of the Arms Export Control Act.

shall ensure that the Commission is nonpartisan and that the full range of perspectives on the subject of offsets in the defense industry is adequately represented.

(c) DUTIED.—The Commission shall be responsible for reviewing and reporting on—

(1) the full range of current practices by foreign governments in requiring offsets in purchasing agreements and the extent and nature of offsets offered by United States and foreign defense industry contractors;

(2) the impact of the use of offsets on defense subcontractors and nondefense industrial sectors affected by indirect offsets; and

(3) the role of offsets, both direct and indirect, on domestic industry stability, United States trade competitiveness and national security.

(d) COMMISSION REPORT.—Not later than 12 months after the Commission is established, the Commission shall submit a report to the appropriate congressional committees. In addition to the items described under subsection (c), the report shall include—

(1) an analysis of—

(A) the collateral impact of offsets on industry sectors that may be different than those of the contractor providing the offsets, including estimates of contracts and jobs lost as well as an assessment of damage to industrial sectors;

(B) the role of offsets with respect to competitiveness of the United States defense industry in international trade and the potential damage to the ability of United States contractors to compete if offsets were prohibited or limited; and

(C) the impact on United States national security, and upon United States nonproliferation objectives, of the use of coproduction, subcontracting, and technology transfer with foreign governments or companies that results from fulfilling offset requirements, with particular emphasis on the question of dependency upon foreign nations for the supply of critical components or technology;

(2) proposals for unilateral, bilateral, or multilateral measures aimed at reducing any detrimental effects of offsets; and

(3) an identification of the appropriate executive branch agencies to be responsible for monitoring the use of offsets in international defense trade.

(e) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(f) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(g) MEETINGS.—The Commission shall meet at the call of the Chairman.

(h) COMMISSION PERSONNEL MATTERS.—

(1) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code,[3] for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(2) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(3) STAFF.—

(A) IN GENERAL.—The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(B) COMPENSATION.—The Chairman of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.[4]

(4) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(5) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(i) TERMINATION.—The Commission shall terminate 30 days after the transmission of the report from the President as mandated in section 1248(b).

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[3] The current rate of compensation at level IV of the Executive Schedule is $140,300 per annum (Executive Order 13368; 70 F.R. 1147; December 30, 2004).

[4] The current rate of compensation at level V of the Executive Schedule is $131,400 per annum (Executive Order 13368; 70 F.R. 1147; December 30, 2004).

SEC. 1248. MULTILATERAL STRATEGY TO ADDRESS OFFSETS.

(a) IN GENERAL.—The President shall initiate a review to determine the feasibility of establishing, and the most effective means of negotiating, a multilateral treaty on standards for the use of offsets in international defense trade, with a goal of limiting all offset transactions that are considered injurious to the economy of the United States.

(b) REPORT REQUIRED.—Not later than 90 days after the date on which the Commission submits the report required under section 1247(d), the President shall submit to the appropriate congressional committees a report containing the President's determination pursuant to subsection (a), and, if the President determines a multilateral treaty is feasible or desirable, a strategy for United States negotiation of such a treaty. One year after the date the report is submitted under the preceding sentence, and annually thereafter for 5 years, the President shall submit to the appropriate congressional committees a report detailing the progress toward reaching such a treaty.

(c) REQUIRED INFORMATION.—The report required by subsection (b) shall include—

(1) a description of the United States efforts to pursue multilateral negotiations on standards for the use of offsets in international defense trade;

(2) an evaluation of existing multilateral fora as appropriate venues for establishing such negotiations;

(3) a description on a country-by-country basis of any United States efforts to engage in negotiations to establish bilateral treaties or agreements with respect to the use of offsets in international defense trade; and

(4) an evaluation on a country-by-country basis of any foreign government efforts to address the use of offsets in international defense trade.

(d) COMPTROLLER GENERAL REVIEW.—The Comptroller General of the United States shall monitor and periodically report to Congress on the progress in reaching a multilateral treaty.

(6) International Arms Sales Code of Conduct Act of 1999

Subtitle F of title XII of H.R. 3427 [Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001; enacted by reference in sec. 1000(a)(7) of Public Law 106–113; H.R. 3194], 113 Stat. 1501, approved November 29, 1999

AN ACT To authorize appropriations for the Department of State for fiscal years 2000 and 2001; to provide for enhanced security at United States diplomatic facilities; to provide for certain arms control, nonproliferation, and other national security measures; to provide for reform of the United Nations; and for other purposes.

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

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Subtitle F—International Arms Sales Code of Conduct Act of 1999 [1]

SEC. 1261. SHORT TITLE.

This subtitle may be cited as the "International Arms Sales Code of Conduct Act of 1999".

SEC. 1262. INTERNATIONAL ARMS SALES CODE OF CONDUCT.

(a) NEGOTIATIONS.—The President shall attempt to achieve the foreign policy goal of an international arms sales code of conduct. The President shall take the necessary steps to begin negotiations within appropriate international fora not later than 120 days after the date of the enactment of this Act. The purpose of these negotiations shall be to establish an international regime to promote global transparency with respect to arms transfers, including participation by countries in the United Nations Register of Conventional Arms, and to limit, restrict, or prohibit arms transfers to countries that do not observe certain fundamental values of human liberty, peace, and international stability.

(b) CRITERIA.—The President shall consider the following criteria in the negotiations referred to in subsection (a):

(1) PROMOTES DEMOCRACY.—The government of the country—

(A) was chosen by and permits free and fair elections;

(B) promotes civilian control of the military and security forces and has civilian institutions controlling the policy, operation, and spending of all law enforcement and security institutions, as well as the armed forces;

(C) promotes the rule of law and provides its nationals the same rights that they would be afforded under the United States Constitution if they were United States citizens; and

[1] 22 U.S.C. 2551 note.

(D) promotes the strengthening of political, legislative, and civil institutions of democracy, as well as autonomous institutions to monitor the conduct of public officials and to combat corruption.

(2) RESPECTS HUMAN RIGHTS.—The government of the country—

(A) does not persistently engage in gross violations of internationally recognized human rights, including—

(i) extrajudicial or arbitrary executions;

(ii) disappearances;

(iii) torture or severe mistreatment;

(iv) prolonged arbitrary imprisonment;

(v) systematic official discrimination on the basis of race, ethnicity, religion, gender, national origin, or political affiliation; and

(vi) grave breaches of international laws of war or equivalent violations of the laws of war in internal armed conflicts;

(B) vigorously investigates, disciplines, and prosecutes those responsible for gross violations of internationally recognized human rights;

(C) permits access on a regular basis to political prisoners by international humanitarian organizations;

(D) promotes the independence of the judiciary and other official bodies that oversee the protection of human rights;

(E) does not impede the free functioning of domestic and international human rights organizations; and

(F) provides access on a regular basis to humanitarian organizations in situations of conflict or famine.

(3) NOT ENGAGED IN CERTAIN ACTS OF ARMED AGGRESSION.—The government of the country is not engaged in acts of armed aggression in violation of international law.

(4) NOT SUPPORTING TERRORISM.—The government of the country does not provide support for international terrorism.

(5) NOT CONTRIBUTING TO PROLIFERATION OF WEAPONS OF MASS DESTRUCTION.—The government of the country does not contribute to the proliferation of weapons of mass destruction.

(6) REGIONAL LOCATION OF COUNTRY.—The country is not located in a region in which arms transfers would exacerbate regional arms races or international tensions that present a danger to international peace and stability.

(c) REPORTS TO CONGRESS.—

(1) REPORT RELATING TO NEGOTIATIONS.—Not later than 6 months after the commencement of the negotiations under subsection (a), and not later than the end of every 6–month period thereafter until an agreement described in subsection (a) is concluded, the President shall report to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate on the progress made during these negotiations.

(2) HUMAN RIGHTS REPORTS.—In the report required in sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(b) and 2304(b)), the Secretary of State shall

describe the extent to which the practices of each country evaluated meet the criteria in paragraphs (1)(A) and (2) of subsection (a).

(7) Proposed Arms Sales to Jordan

Public Law 99–162 [S.J. Res. 228], 99 Stat. 937, approved November 25, 1985

JOINT RESOLUTION Relating to the proposed sales of arms to Jordan.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That prior to March 1, 1986, no letter of offer shall be valid with respect to any of the proposed sales to Jordan of advanced weapons systems, including advanced aircraft and advanced air defense systems, that are described in the notification pursuant to section 36(b) of the Arms Export Control Act submitted to the Congress on October 21, 1985, unless direct and meaningful peace negotiations between Israel and Jordan are underway.

(8) Conditions on Arms Sales to Turkey

Partial text of Public Law 94–104 [S. 2230], 89 Stat. 508, approved October 6, 1975

AN ACT To authorize appropriations for the Board for International Broadcasting for fiscal year 1976; and to promote improved relations between the United States, Greece, and Turkey, to assist in the solution of the refugee problem on Cyprus, and to otherwise strengthen the North Atlantic Alliance.

* * * * * * *

Sec. 2. (a)(1) The Congress reaffirms the policy of the United States to seek to improve and harmonize relations among the allies of the United States and between the United States and its allies, in the interest of mutual defense and national security. In particular, the Congress recognizes the special contribution to the North Atlantic Alliance of Greece and Turkey by virtue of their geographic position on the southeastern flank of Europe and is prepared to assist in the modernization and strengthening of their respective armed forces.

(2) The Congress further reaffirms the policy of the United States to alleviate the suffering of refugees and other victims of armed conflict and to foster and promote international efforts to ameliorate the conditions which prevent such persons from resuming normal and productive lives. The Congress, therefore, calls upon the President to encourage and to cooperate in the implementation of multilateral programs, under the auspices of the Secretary General of the United Nations, the United Nations High Commissioner for Refugees, or other appropriate international agencies, for the relief of and assistance to refugees and other persons disadvantaged by the hostilities on Cyprus pending a final settlement of the Cyprus refugee situation in the spirit of Security Council Resolution 361.

(b)(1) In order that the purposes of this Act may be carried out without awaiting the enactment of foreign assistance legislation for fiscal year 1976 programs—

(A) the President is authorized, notwithstanding section 620 of the Foreign Assistance Act of 1961, to furnish to the Government of Turkey those defense articles and defense services with respect to which contracts of sale were signed under section 21 or section 22 of the Foreign Military Sales Act on or before February 5, 1975, and to issue licenses for the transportation to the Government of Turkey of arms, ammunition, and implements of war (including technical data relating thereto): *Provided,* That such authorization shall be effective only while Turkey shall observe the cease-fire and shall neither increase its forces on Cyprus nor transfer to Cyprus any United States supplied implements of war: *Provided further,* That the authorities contained in this section shall not become effective unless and until the President determines and certifies to the Congress that the furnishing of defense articles and defense

services, and the issuance of licenses for the transportation of implements of war, arms and ammunition under this section are important to the national security interests of the United States;

(B) the President is requested to initiate discussions with the Government of Greece to determine the most urgent needs of Greece for economic and military assistance; and

(C) the President is requested to initiate discussions with the Government of Turkey concerning effective means of preventing the diversion of opium poppy into illicit channels.

(2) The President is directed to submit to the Speaker of the House of Representatives and to the Foreign Relations and Appropriations Committee of the Senate within sixty days after the enactment of this Act a report on discussions conducted under subsections (b)(1) (B) and (C), together with his recommendations for economic and military assistance to Greece for the fiscal year 1976.

(c)(1)[1] * * *

(2)[1] * * *

(3) Nothing in this section shall be construed as authorizing (A) military assistance to Turkey under chapter 2 of part II of the Foreign Assistance Act of 1961, or (B) sales, credits, or guaranties to or on behalf of Turkey under the Foreign Military Sales Act for the procurement of defense articles or defense services not determined by the President to be needed for the fulfillment of Turkey's North Atlantic Treaty Organization responsibilities.

(4) Pursuant to the provisions of this section, in the case of any letter of offer to sell any defense article or defense service pursuant to the Foreign Military Sales Act for $25,000,000 or more, the President shall submit to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate a statement containing (A) a brief description of the defense article or defense service to be offered, (B) the dollar amount of the proposed sale, (C) the United States Armed Force which is making the sale, and (D) the date on which any letter of offer to sell is to be issued. The letter of offer shall not be issued if the Congress, within twenty calendar days after receiving any such statement, adopts a concurrent resolution stating in effect that it objects to such proposed sale.

(5) This subsection shall become effective only upon enactment of foreign assistance legislation authorizing sales, credits, and guaranties under the Foreign Military Sales Act for fiscal year 1976.[2]

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[1] Subsecs. (1) and (2) amended sec. 620(x) of the Foreign Assistance Act of 1961; see *Legislation on Foreign Relations Through 2004*, vol. I–A.

[2] Such authorization became effective upon enactment of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 729), approved June 30, 1976.

(9) Emergency Security Assistance Act of 1973

Public Law 93–199 [H.R. 11088], 87 Stat. 836, approved December 26, 1973, as amended by Public Law 95–384 [International Security Assistance Act of 1978, S. 3075], 92 Stat. 730 at 747, approved September 26, 1978

AN ACT To provide emergency assistance authorizations for Israel and Cambodia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Emergency Security Assistance Act of 1973".

Sec. 2.[1] In addition to such amounts as may be otherwise authorized to be appropriated to the President for security assistance for the fiscal year 1974, there are hereby authorized to be appropriated to the President not to exceed $2,200,000,000 for emergency military assistance or foreign military sales credits, or for both as the President may determine, for Israel, of which sum amounts in excess of $1,500,000,000 may be used pursuant to this section or section 4 of this Act only if the President (1) determines it to be important to our national interest that Israel receive assistance hereunder exceeding $1,500,000,000, and (2) reports to Congress each such determination (if more than one) at least twenty days prior to date on which funds are obligated or expended under this Act in excess of such $1,500,000,000 limitation. The twenty-day requirement contained in the preceding sentence shall not apply if hostilities are renewed in the Middle East. The President shall include in his report the amount of funds to be used pursuant to the determination, the terms of the additional assistance under section 2 or section 4, and the justification for the determination.

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[1] FA Appropriation Act, 1974: "$2,200,000,000: *Provided,* That the funds appropriated in this paragraph shall be available only upon enactment into law of authorizing legislation: *Provided further,* That any part of any funds appropriated in this paragraph used to furnish military assistance shall be accounted for in accordance with section 108 of the Mutual Security Appropriation Act, 1956 (69 Stat. 438), as amended: *Provided further,* That of the funds appropriated under this paragraph, not more than $1,500,000,000 may be available for grant military assistance: *Provided further,* That none of the funds appropriated in this paragraph in excess of $1,700,000,000 shall be obligated unless the President determines such obligations will be in the national interest and provides Congress with detailed justifications and notification ten days prior to any such obligation of funds."

The FA Appropriation Act, 1974 required 10 days notification prior to any such obligation of funds.

The President issued a memorandum on March 1, 1974 (39 F.R. 10417), delegating functions under secs. 2 and 6 of this Act to the Secretary of State and delegating the function of providing military assistance or foreign military sales credits to the Secretary of Defense. The President, furthermore, stated: "I hereby allocate from the appropriation for 'Energy Security Assistance for Israel' to the Secretary of Defense, $2,200,000,000.00. This allocation is subject to the limitations imposed by the provisos in the provision appropriating these funds and subject to apportionment of the necessary funds by the Office of Management and Budget. I direct the Secretary of Defense to allocate to the Secretary of State such sums from the $2,200,000,000.00 as may be necessary from time to time for payment by the United States of its share of the expenses of the United Nations Emergency Force in the Middle East, as apportioned by the United Nations in accordance with article 17 of the United Nations Charter as authorized in Section 6 of Public Law 93–199, the Emergency Security Assistance Act of 1973.".

All information contained in the justification shall be public information except to the extent that the President concludes that publication would be incompatible with the security interests of the United States.

Sec. 3. Military assistance furnished out of funds appropriated under section 2 of this Act shall be furnished in accordance with all of the provisions applicable to military assistance under the Foreign Assistance Act of 1961 (75 Stat. 424; Public Law 87–195), as amended. Foreign military sales credits extended to Israel out of such funds shall be provided on such terms and conditions as the President may determine and without regard to the provisions of the Foreign Military Sales Act (82 Stat. 1320; Public Law 90–629), as amended.

Sec. 4. At any time prior to June 30, 1974, the President is hereby authorized, within the limits of funds appropriated under section 2 of this Act for Israel, to release Israel from its contractual liability to pay for defense articles and defense services purchased or financed under the said Foreign Military Sales Act or under this Act during the period beginning October 6, 1973, and ending June 30, 1974, and such funds shall be used to reimburse current applicable appropriations, funds, and accounts of the Department of Defense for the value of such defense articles and defense services.

Sec. 5.[2] * * * [Repealed—1978]

Sec. 6. Of the funds appropriated pursuant to section 2, the President may use such sums as may be necessary from time to time for payment by the United States of its share of the expenses of the United Nations Emergency Force in the Middle East, as apportioned by the United Nations in accordance with article 17 of the United Nations Charter.

[2] Sec. 5, which required the Secretary of Defense to submit a report to the Congress on the effectiveness of the foreign military assistance program as it related to the Middle East conflict, was repealed by sec. 29(c)(3) of the International Security Assistance Act of 1978 (92 Stat. 747).

(10) Mutual Security Act of 1959, as amended

Partial text of Public Law 86–108 [H.R. 7500], 73 Stat. 246, approved July 24, 1959

AN ACT To amend further the Mutual Security Act of 1954, as amended, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Mutual Security Act of 1959".

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NOTE.—Except for Chapters V, VI, and Sections 702 and 703, the Mutual Security Act of 1959 consists of amendments to the Mutual Security Act of 1954, as amended, and to other laws.

NOTE.—Section 501(b), which related to international cooperation in health, was repealed by Sec. 602 of the Mutual Security Act of 1960. Section 642 of the Foreign Assistance Act of 1961 repealed Sec. 501(a), Chapter VI, and Sections 702 and 703 of the Mutual Security Act of 1959, as amended.

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CHAPTER V—INTERNATIONAL COOPERATION IN HEALTH; COLOMBO PLAN COUNCIL FOR TECHNICAL COOPERATION

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COLOMBO PLAN COUNCIL FOR TECHNICAL COOPERATION

Sec. 502.[1] To enable the United States to maintain membership in the Colombo Plan Council for Technical Cooperation, there is hereby authorized to be appropriated from time to time to the Department of State such sums as may be necessary for the payment by the United States of its share of the expenses of the Colombo Plan Council for Technical Cooperation.

[1] 22 U.S.C. 1896b.

(11) Mutual Security Act of 1954, as amended

Retained provisions of Public Law 83–665 [H.R. 9678], 68 Stat. 832, approved August 26, 1954, as amended

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Sec. 402.[1] * * * [Repealed—1996]

* * * * * * *

Sec. 408.[2] **North Atlantic Treaty Organization.**—(a) In order to provide for United States participation in the North Atlantic Treaty Organization, there is hereby authorized to be appropriated such amounts as may be necessary from time to time for the payment by the United States of its share of the expenses of the Organization and all necessary salaries and expenses of the United States permanent representative to the Organization, of such persons as may be appointed to represent the United States in the subsidiary bodies of the Organization or in any multilateral organization which participates in achieving the aims of the North Atlantic Treaty, and of their appropriate staffs, and the expenses of participation in meetings of such organizations, including salaries, expenses, and allowances of personnel and dependents as authorized by the Foreign Service Act of 1980[3] and allowances and expenses as provided in section 6 of the Act of July 30, 1946 (22 U.S.C. 287r).

(b) The United States permanent representative to the North Atlantic Treaty Organization shall be appointed by the President by and with the advice and consent of the Senate and shall hold office at the pleasure of the President. Such representative shall have the rank and status of ambassador extraordinary and plenipotentiary and shall be a chief of mission under the Foreign Service Act of 1980.[4]

(c) Persons detailed to the international staff of the North Atlantic Treaty Organization in accordance with section 628 of the Foreign Assistance Act of 1961 who are members of the Foreign Service serving under limited appointments may serve for periods of

[1] Formerly at 22 U.S.C. 1922. Sec. 228 of the Federal Agriculture Improvement and Reform Act of 1996 (Public Law 104–127; 110 Stat. 963) repealed sec. 402, relating to earmarking of funds.

[2] 22 U.S.C. 1928. Sec. 8(h) of Public Law 85–141 (71 Stat. 361), eliminated provisions authorizing appropriations of not more than $3,200,000 for the fiscal year 1955.

[3] The reference to the Foreign Service Act of 1980 was substituted in lieu of a reference to the Foreign Service Act of 1946 by sec. 2206(6) of Public Law 96–465 (94 Stat. 2161).

[4] The reference to the chief of mission under the Foreign Service Act of 1980 was substituted in lieu of a reference to the chief of mission, class 1, within the meaning of the Foreign Service Act of 1946 by sec. 2206(6) of Public Law 96–465 (94 Stat. 2161).

more than five years[5] notwithstanding the limitation in section 309 of the Foreign Service Act of 1980.[6]

* * * * * * *

Sec. 417.[7] **Irish Counterpart.**—Pursuant to section 115(b)(6) of the Economic Cooperation Act of 1948, as amended, the disposition within Ireland of the unencumbered balance, in the amount of approximately 6,000,000 Irish pounds, of the special account of Irish funds established under article IV of the Economic Cooperation Agreement between the United States of America and Ireland, dated June 28, 1948, for the purposes of—

(1) scholarship exchange between the United States and Ireland;

(2) other programs and projects (including the establishment of an Agricultural Institute) to improve and develop the agricultural production and marketing potential of Ireland and to increase the production and efficiency of Irish industry; and

(3) development programs and projects in aid of the foregoing objectives, is hereby approved, as provided in the agreement between the Government of the United States of America and the Government of Ireland, dated June 17, 1954.

* * * * * * *

Sec. 502.[8] **Use of Foreign Currency.**—(a) Notwithstanding section 1415 of the Supplemental Appropriation Act, 1953, or any other provision of law, proceeds of sales made under section 550 of the Mutual Security Act of 1951, as amended, shall remain available and shall be used for any purposes of this Act, giving particular regard to the following purposes—

(1) for providing military assistance to nations or mutual defense organizations eligible to receive assistance under this Act;

(2) for purchase of goods or services in friendly nations;

(3) for loans, under applicable provisions of this Act, to increase production of goods or services, including strategic materials, needed in any nation with which an agreement was negotiated, or in other friendly nations, with the authority to use currencies received in repayment for the purposes stated in this section or for deposit to the general account of the Treasury of the United States;

(4) for developing new markets on a mutually beneficial basis;

(5) for grants-in-aid to increase production for domestic needs in friendly countries; and

(6) for purchasing materials for United States stockpiles.

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[5] Sec. 205(h) of Public Law 86–108 (73 Stat. 250), substituted "five years" for "four years" in subsec. (c).

[6] Sec. 2206(6) of Public Law 96–465 (94 Stat. 2161) substituted the words to this point beginning with "section 628 * * *" in lieu of text which made reference to sec. 529 of the Mutual Security Act of 1954 and to sec. 522 of the Foreign Service Act of 1946.

[7] 22 U.S.C. 1937.

[8] 22 U.S.C. 1754.

(b)[9] (1)(A) Notwithstanding section 1415 of the Supplemental Appropriation Act, 1953, or any other provision of law—

(i) local currencies owned by the United States which are in excess of the amounts reserved under section 612(a) of the Foreign Assistance Act of 1961 and of the requirements of the United States Government in payment of its obligations outside of the United States, as such requirements may be determined from time to time by the President; and

(ii) any other local currencies owned by the United States in amounts not to exceed the equivalent of $75 per day per person or the maximum per diem allowance established under the authority of subchapter 1 of chapter 57 of title 5 of the United States Code for employees of the United States Government while traveling in a foreign country, whichever is greater, exclusive of the actual cost of transportation;

shall be made available to Members and employees of the Congress for their local currency expenses when authorized as provided in subparagraph (B).

(B) The authorization required for purposes of subparagraph (A) may be provided—

(i) by the Speaker of the House of Representatives in the case of a Member or employee of the House;

(ii) by the chairman of a standing or select committee of the House of Representatives in the case of a member or employee of that committee;

(iii) by the President of the Senate, the President pro tempore of the Senate, the Majority Leader of the Senate, or the Minority Leader of the Senate, in the case of a Member or employee of the Senate;

(iv) by the chairman of a standing, select, or special committee of the Senate in the case of a member or employee of that committee or of an employee of a member of that committee; and

(v) by the chairman of a joint committee of the Congress in the case of a member or employee of that committee.

(C) Whenever local currencies owned by the United States are not otherwise available for purposes of this subsection, the Secretary of the Treasury shall purchase such local currencies as may be necessary for such purposes, using any funds in the Treasury not otherwise appropriated.

(2) On a quarterly basis, the chairman of each committee of the House of Representatives or the Senate and of each joint committee of the Congress (A) shall prepare a consolidated report (i) which itemizes the amounts and dollar equivalent values of each foreign currency expended and the amounts of dollar expenditures from appropriated funds in connection with travel outside the United States, stating the purposes of the expenditures including per diem (lodging and meals), transportation, and other purposes, and (ii) which shows the total itemized expenditures, by such committee and by each member or employee of such committee (including in

[9] Subsec. (b) was amended and restated by sec. 22(a) of the International Security Assistance Act of 1978 (Public Law 95–384, 92 Stat. 742). Sec. 22(b) of the same Act stated that this section shall take effect on the date of enactment of this Act, "notwithstanding section 30 of this Act." For text of sec. 30, see *Legislation on Foreign Relations Through 2004*, vol. I–A.

the case of a committee of the Senate, each employee of a member of the committee who received an authorization under paragraph (1) from the chairman of the committee); and (B) shall forward such consolidated report to the Clerk of the House of Representatives (if the committee is a committee of the House of Representatives or a joint committee whose funds are disbursed by the Chief Administrative Officer[10] of the House) or to the Secretary of the Senate (if the committee is a committee of the Senate or a joint committee whose funds are disbursed by the Secretary of the Senate). Each such consolidated report shall be open to public inspection and shall be published in the Congressional Record within ten legislative days after the report is forwarded pursuant to this paragraph. In the case of the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives, such consolidated report may, in the discretion of the chairman of the committee, omit such information as would identify the foreign countries in which members and employees of that committee traveled.

(3)(A) Each Member or employee who receives an authorization under paragraph (1) from the Speaker of the House of Representatives, the President of the Senate, the President pro tempore of the Senate, the Majority Leader of the Senate, or the Minority Leader of the Senate, shall within thirty days after the completion of the travel involved, submit a report setting forth the information specified in paragraph (2), to the extent applicable, to the Clerk of the House of Representatives (in the case of a Member of the House or an employee whose salary is disbursed by the Chief Administrative Officer[10] of the House) or the Secretary of the Senate (in the case of a Member of the Senate or an employee whose salary is disbursed by the Secretary of the Senate). In the case of an authorization for a group of Members or employees, such reports shall be submitted for all Members of the group by its chairman, or if there is no designated chairman, by the ranking Member or if the group does not include a Member, by the senior employee in the group. Each report submitted pursuant to this subparagraph shall be open to public inspection.

(B) On a quarterly basis, the Clerk of the House of Representatives and the Secretary of the Senate shall each prepare a consolidation of the reports received by them under this paragraph with respect to expenditures during the preceding quarter by each Member and employee or by each group in the case of expenditures made on behalf of a group which are not allocable to individual members of the group. Each such consolidation shall be open to public inspection and shall be published in the Congressional Record within ten legislative days after its completion.

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Sec. 514.[11] **International Educational Exchange Activities.**—Foreign currencies or credits owed to or owned by the United States, where arising from this act or otherwise, shall, upon

[10] Sec. 218(2) of Public Law 104–184 (110 Stat. 1747) struck out "Clerk" the second place it appears in the first sentences of subsec. (b)(2) and subsec. (b)(3)(A), and inserted in lieu thereof "Chief Administrative Officer".

[11] 22 U.S.C. 1766.

a request from the Secretary of State certifying that such funds are required for the purpose of international educational exchange activities under programs authorized by section 32(b)(2) of the Surplus Property Act of 1944, as amended, be reserved by the Secretary of the Treasury for sale to the Department of State for such activities on the basis of the dollar value at the time of the reservation.

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Sec. 523. Coordination With Foreign Policy.—(a) * * *

(b) * * *

(c) * * *

(d)[12] Whenever the President determines that the prevention of improper currency transactions[13] in a given country requires it, he may direct the chief of the United States diplomatic mission there to issue regulations applicable to members of the Armed Forces and officers and employees of the United States Government, and to contractors with the United States Government and their employees, governing the extent to which their pay and allowances received and to be used in that country shall be paid in local currency. Notwithstanding any other law, United States Government agencies are authorized and directed to comply with such regulations.

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Sec. 536.[14] **Joint Commission on Rural Reconstruction in China.**—The President is authorized to continue to participate in the Joint Commission on Rural Reconstruction in China and to appoint citizens of the United States to the Commission.

[12] 22 U.S.C. 1783(d). Sec. 401(f) of Public Law 86–472 (74 Stat. 139) added subsec. (d).

[13] Sec. 707 of the FA Act of 1961 struck out achievement of United States foreign policy objectives" and inserted in lieu thereof "prevention of improper currency transactions".

[14] 22 U.S.C. 1796.

(12) Notice to Congress of Certain Transfers of Defense Articles and Defense Services [1]

Partial text of Public Law 80–253 [National Security Act of 1947, S. 758], 61 Stat. 495, approved July 26, 1947, as amended by Public Law 99–569 [Intelligence Authorization Act for Fiscal Year 1987, S. 2368], 100 Stat. 3190, approved November 14, 1986; Public Law 102–88 [Intelligence Authorization Act, Fiscal Year 1991; H.R. 1455], 105 Stat. 429, approved August 14, 1991; and by Public Law 103–160 [National Defense Authorization Act for Fiscal Year 1994; H.R. 2401], 107 Stat. 1547, approved November 30, 1993

AN ACT To promote the national security by providing for a Secretary of Defense; for a National Military Establishment; for a Department of the Army, a Department of the Navy, and a Department of the Air Force; and for the coordination of the activities of the National Military Establishment with other departments and agencies of the Government concerned with the national security.

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

SHORT TITLE

That this Act may be cited as the "National Security Act of 1947".

* * * * * * *

NOTICE TO CONGRESS OF CERTAIN TRANSFERS OF DEFENSE ARTICLES AND DEFENSE SERVICES

SEC. 505.[2] (a)(1) The transfer of a defense article or defense service, or the anticipated transfer in any fiscal year of any aggregation of defense articles or defense services,[3] exceeding $1,000,000 in value by an intelligence agency to a recipient outside that agency shall be considered a significant anticipated intelligence activity for the purpose of this title.[4]

(2) Paragraph (1) does not apply if—

(A) the transfer is being made to a department, agency, or other entity of the United States (so long as there will not be a subsequent retransfer of the defense articles or defense services outside the United States Government in conjunction with an intelligence or intelligence-related activity); or

(B) the transfer—

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[1] See also *Legislation on Foreign Relations Through 2004,* vol. IV.

[2] 50 U.S.C. 415. Sec. 602(a)(1) of the Intelligence Authorization Act, Fiscal Year 1991 (Public Law 102–88; 105 Stat. 441), redesignated former sections 502 and 503 as sections 504 and 505. This section was originally added by sec. 602 of the Intelligence Authorization Act for Fiscal Year 1987 (Public Law 99–569; 100 Stat. 3190).

For other sections of title V of the National Security Act of 1947, as amended, see *Legislation on Foreign Relations Through 2004*, vol. IV.

[3] Sec. 604 of the Intelligence Authorization Act, Fiscal Year 1991 (Public Law 102–88; 105 Stat. 445), inserted ", or the anticipated transfer in any fiscal year of any aggregation of defense articles or defense services,".

[4] Sec. 602(c)(2) of the Intelligence Authorization Act, Fiscal Year 1991 (Public Law 102–88; 105 Stat. 444), struck out "section 501 of this Act", and inserted in lieu thereof "this title".

(i) is being made pursuant to authorities contained in part II of the Foreign Assistance Act of 1961, the Arms Export Control Act, title 10 of the United States Code (including a law enacted pursuant to section 7307(a)[5] of that title), or the Federal Property and Administrative Services Act of 1949, and

(ii) is not being made in conjunction with an intelligence or intelligence-related activity.

(3) An intelligence agency may not transfer any defense articles or defense services outside the agency in conjunction with any intelligence or intelligence-related activity for which funds were denied by the Congress.

(b) As used in this section—

(1) the term "intelligence agency" means any department, agency, or other entity of the United States involved in intelligence or intelligence-related activities;

(2) the terms "defense articles" and "defense services" mean the items on the United States Munitions List pursuant to section 38 of the Arms Export Control Act (22 CFR part 121);

(3) the term "transfer" means—

(A) in the case of defense articles, the transfer of possession of those articles; and

(B) in the case of defense services, the provision of those services; and

(4) the term "value" means—

(A) in the case of defense articles, the greater of—

(i) the original acquisition cost to the United States Government, plus the cost of improvements or other modifications made by or on behalf of the Government; or

(ii) the replacement cost; and

(B) in the case of defense services, the full cost to the Government of providing the services.

* * * * * * *

[5] Sec. 828(d)(1) of Public Law 103–160 (107 Stat. 1715) struck out "section 7307(b)(1)" and inserted in lieu thereof "section 7307(a).

j. Development Assistance Legislation

(1) Assistance for International Malaria Control Act

Partial text of Public Law 106–570 [S. 2943], 114 Stat. 3038, approved on December 27, 2000

AN ACT To authorize additional assistance for international malaria control, and for other purposes.

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

SECTION 1.[1] SHORT TITLE.

This Act may be cited as the "Assistance for International Malaria Control Act".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows: * * *

TITLE I—ASSISTANCE FOR INTERNATIONAL MALARIA CONTROL

SEC. 101.[2] SHORT TITLE.

This title may be cited as the "International Malaria Control Act of 2000".

SEC. 102.[3] FINDINGS.

Congress makes the following findings:

(1) The World Health Organization estimates that there are 300,000,000 to 500,000,000 cases of malaria each year.

(2) According to the World Health Organization, more than 1,000,000 persons are estimated to die due to malaria each year.

(3) According to the National Institutes of Health, about 40 percent of the world's population is at risk of becoming infected.

(4) About half of those who die each year from malaria are children under 9 years of age.

(5) Malaria kills one child each 30 seconds.

(6) Although malaria is a public health problem in more than 90 countries, more than 90 percent of all malaria cases are in sub-Saharan Africa.

(7) In addition to Africa, large areas of Central and South America, Haiti and the Dominican Republic, the Indian subcontinent, Southeast Asia, and the Middle East are high risk malaria areas.

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[1] 22 U.S.C. 2151 note. See also the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (Public Law 108–25), in *Legislation on Foreign Relations Through 2004*, vol. I–A, beginning at page 566.

[2] 22 U.S.C. 2151 note.

[3] 22 U.S.C. 2151b–1 note.

(8) These high risk areas represent many of the world's poorest nations.

(9) Malaria is particularly dangerous during pregnancy. The disease causes severe anemia and is a major factor contributing to maternal deaths in malaria endemic regions.

(10) "Airport malaria", the importing of malaria by international aircraft and other conveyances, is becoming more common, and the United Kingdom reported 2,364 cases of malaria in 1997, all of them imported by travelers.

(11) In the United States, of the 1,400 cases of malaria reported to the Centers for Disease Control and Prevention in 1998, the vast majority were imported.

(12) Between 1970 and 1997, the malaria infection rate in the United States increased by about 40 percent.

(13) Malaria is caused by a single-cell parasite that is spread to humans by mosquitoes.

(14) No vaccine is available and treatment is hampered by development of drug-resistant parasites and insecticide-resistant mosquitoes.

SEC. 103.[4] ASSISTANCE FOR MALARIA PREVENTION, TREATMENT, CONTROL, AND ELIMINATION.

(a) ASSISTANCE.—

(1) IN GENERAL.—The Administrator of the United States Agency for International Development, in coordination with the heads of other appropriate Federal agencies and nongovernmental organizations, shall provide assistance for the establishment and conduct of activities designed to prevent, treat, control, and eliminate malaria in countries with a high percentage of malaria cases.

(2) CONSIDERATION OF INTERACTION AMONG EPIDEMICS.—In providing assistance pursuant to paragraph (1), the Administrator should consider the interaction among the epidemics of HIV/AIDS, malaria, and tuberculosis.

(3) DISSEMINATION OF INFORMATION REQUIREMENT.—Activities referred to in paragraph (1) shall include the dissemination of information relating to the development of vaccines and therapeutic agents for the prevention of malaria (including information relating to participation in, and the results of, clinical trials for such vaccines and agents conducted by United States Government agencies) to appropriate officials in such countries.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out subsection (a) $50,000,000 for each of the fiscal years 2001 and 2002.

(2) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended.

[4] 22 U.S.C. 2151b–1.

TITLE II—POLICY OF THE UNITED STATES WITH RESPECT TO MACAU[5]

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TITLE III—UNITED STATES-CANADA ALASKA RAIL COMMISSION[6]

* * * * * * *

TITLE IV—PACIFIC CHARTER COMMISSION ACT OF 2000[7]

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TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501.[8] ASSISTANCE EFFORTS IN SUDAN.

(a) ADDITIONAL AUTHORITIES.—Notwithstanding any other provision of law, the President is authorized to undertake appropriate programs using Federal agencies, contractual arrangements, or direct support of indigenous groups, agencies, or organizations in areas outside of control of the Government of Sudan in an effort to provide emergency relief, promote economic self-sufficiency, build civil authority, provide education, enhance rule of law and the development of judicial and legal frameworks, support people-to-people reconciliation efforts, or implement any program in support of any viable peace agreement at the local, regional, or national level in Sudan.

(b) EXCEPTION TO EXPORT PROHIBITIONS.—Notwithstanding any other provision of law, the prohibitions set forth with respect to Sudan in Executive Order No. 13067 of November 3, 1997 (62 Fed. Register 59989)[9] shall not apply to any export from an area in Sudan outside of control of the Government of Sudan, or to any necessary transaction directly related to that export, if the President determines that the export or related transaction, as the case may be, would directly benefit the economic development of that area and its people.

SEC. 502. AUTHORITY TO PROVIDE TOWING ASSISTANCE.

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

(1) The United States LST Association (in this section referred to as the "Association") is a patriotic organization dedicated to honoring the memories of those brave American servicemen who selflessly served, and often made the ultimate sacrifice, in the defense of the United States, its allies, and the principles of democracy and freedom.

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[5] For text of the "United States-Macau Policy Act of 2000", see *Legislation on Foreign Relations Through 2004*, vol. II.

[6] Title III authorizes the President to pursue an international agreement with Canada to establish an independent joint commission with the goal of linking Alaska to a continental rail system. See 49 U.S.C. note prec. 28101.

[7] 22 U.S.C. 2656 note. Title IV authorizes the President to establish a commission to pursue a "consistent and coordinated foreign policy * * * to ensure economic and military security in the Asia-Pacific region". For text, see *Legislation on Foreign Relations Through 2004*, vol. II.

[8] 50 U.S.C. 1701 note.

[9] For text, see *Legislation on Foreign Relations Through 2004*, vol. III.

(2) The Association is currently engaged in efforts to return to the United States the former United States warship, Landing Ship Tank 325 (LST 325) to serve as a memorial to those American servicemen who went into harm's way aboard and from such warships.

(b) AUTHORIZATION.—The Secretary of the Navy is authorized to provide towing services from a suitable vessel of the United States Navy to tow the former LST 325 from its present location, or a location to be determined by the Secretary, to a port on the East Coast of the United States to be determined by the Secretary. The Secretary of the Navy may not provide such services unless the Secretary finds that the provision of such services will not interfere with military operations, military readiness, naval force presence requirements, or the accomplishment of the specific missions of the vessel providing the towing services.

(c) LIMITATIONS.—The services authorized by subsection (b) may not be provided except as part of a regular rotation of the vessel providing the services back to the United States. Such services may be provided only after—

(1) the former LST 325 has been determined by a professional marine survey or by the United States Coast Guard to be seaworthy for towing and meeting requirements for entry into a United States port; and

(2) the Association has named the United States Navy as an additional insured party to the tow hull policy covering the former LST 325, including a waiver of subrogation.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Navy may require such additional terms and conditions in connection with the provision of towing services under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 503. SENSE OF CONGRESS ON THE AMERICAN UNIVERSITY IN BULGARIA.

(a) FINDINGS.—Congress finds that the American University in Bulgaria—

(1) is a fine educational institution that has received generous and well-deserved financial assistance from the United States Government;

(2) has a successful track record and is educating a generation of leaders who will shape and determine the future of their own societies;

(3) has instilled in students in the Balkan region of Europe the intellectual rigor of the American system of higher education;

(4) promotes the study and understanding of democratic governance principles;

(5) maintains entrance and academic standards that are exemplary and has a commitment to providing educational opportunities that is based upon merit rather than solely on the ability of students to bear the entire cost of their education; and

(6) is a cost-effective institution of higher learning and offers a high-quality education.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the United States should assist the American University in Bulgaria to become a self-sustaining institution of higher education in the Balkan region of Europe.

TITLE VI—PAUL D. COVERDELL WORLD WISE SCHOOLS ACT OF 2000 [10]

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[10] 22 U.S.C. 2517 note. For text of title VI, see Peace Corps section, this volume.

(2) Microenterprise for Self-Reliance and International Anti-Corruption Act of 2000

Partial text of Public Law 106–309 [H.R. 1143], 114 Stat. 1078, approved October 17, 2000; amended by Public Law 108–31 [H.R. 192], 117 Stat. 775, approved June 17, 2003

AN ACT To establish a program to provide assistance for programs of credit and other financial services for microenterprises in developing countries, and for other purposes.

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

SECTION 1.[1] SHORT TITLE.

This Act may be cited as the "Microenterprise for Self-Reliance and International Anti-Corruption Act of 2000".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows: * * *

TITLE I—MICROENTERPRISE FOR SELF-RELIANCE ACT OF 2000

SEC. 101.[2] SHORT TITLE.

This title may be cited as the "Microenterprise for Self-Reliance Act of 2000".

SEC. 102.[3] FINDINGS AND DECLARATIONS OF POLICY.

Congress makes the following findings and declarations:

(1) According to the World Bank, more than 1,200,000,000 people in the developing world, or one-fifth of the world's population, subsist on less than $1 a day.

(2) Over 32,000 of their children die each day from largely preventable malnutrition and disease.

(3)(A) Women in poverty generally have larger work loads and less access to educational and economic opportunities than their male counterparts.

(B) Directly aiding the poorest of the poor, especially women, in the developing world has a positive effect not only on family incomes, but also on child nutrition, health and education, as women in particular reinvest income in their families.

(4)(A) The poor in the developing world, particularly women, generally lack stable employment and social safety nets.

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[1] 22 U.S.C. 2151 note. See also the Microenterprise Results and Accountability Act of 2004 (Public Law 108–484), and Microenterprise Report to Congress (Public Law 108–31), in *Legislation on Foreign Relations Through 2004*, vol. I–A, beginning at page 562.

[2] 22 U.S.C. 2151 note.

[3] 22 U.S.C. 2151f note. Sec. 3 of the Microenterprise Results and Accountability Act of 2004 (Public Law 108–484; 118 Stat. 3922) amended the Foreign Assistance Act of 1961 by creating a new title VI—Microenterprise Development Assistance. Sec. 4 of that Act redesignated 22 U.S.C. 2151f as 22 U.S.C. 2212.

(B) Many turn to self-employment to generate a substantial portion of their livelihood. In Africa, over 80 percent of employment is generated in the informal sector of the self-employed poor.

(C) These poor entrepreneurs are often trapped in poverty because they cannot obtain credit at reasonable rates to build their asset base or expand their otherwise viable self-employment activities.

(D) Many of the poor are forced to pay interest rates as high as 10 percent per day to money lenders.

(5)(A) The poor are able to expand their incomes and their businesses dramatically when they can access loans at reasonable interest rates.

(B) Through the development of self-sustaining microfinance programs, poor people themselves can lead the fight against hunger and poverty.

(6)(A) On February 2–4, 1997, a global Microcredit Summit was held in Washington, District of Columbia, to launch a plan to expand access to credit for self-employment and other financial and business services to 100,000,000 of the world's poorest families, especially the women of those families, by 2005. While this scale of outreach may not be achievable in this short time-period, the realization of this goal could dramatically alter the face of global poverty.

(B) With an average family size of five, achieving this goal will mean that the benefits of microfinance will thereby reach nearly half of the world's more than 1,000,000,000 absolute poor people.

(7)(A) Nongovernmental organizations, such as those that comprise the Microenterprise Coalition (such as the Grameen Bank (Bangladesh), K–REP (Kenya), and networks such as Accion International, the Foundation for International Community Assistance (FINCA), and the credit union movement) are successful in lending directly to the very poor.

(B) Microfinance institutions such as BRAC (Bangladesh), BancoSol (Bolivia), SEWA Bank (India), and ACEP (Senegal) are regulated financial institutions that can raise funds directly from the local and international capital markets.

(8)(A) Microenterprise institutions not only reduce poverty, but also reduce the dependency on foreign assistance.

(B) Interest income on the credit portfolio is used to pay recurring institutional costs, assuring the long-term sustainability of development assistance.

(9) Microfinance institutions leverage foreign assistance resources because loans are recycled, generating new benefits to program participants.

(10)(A) The development of sustainable microfinance institutions that provide credit and training, and mobilize domestic savings, is a critical component to a global strategy of poverty reduction and broad-based economic development.

(B) In the efforts of the United States to lead the development of a new global financial architecture, microenterprise should play a vital role. The recent shocks to international financial markets demonstrate how the financial sector can

shape the destiny of nations. Microfinance can serve as a powerful tool for building a more inclusive financial sector which serves the broad majority of the world's population including the very poor and women and thus generate more social stability and prosperity.

(C) Over the last two decades, the United States has been a global leader in promoting the global microenterprise sector, primarily through its development assistance programs at the United States Agency for International Development. Additionally, the Department of the Treasury and the Department of State have used their authority to promote microenterprise in the development programs of international financial institutions and the United Nations.

(11)(A) In 1994, the United States Agency for International Development launched the "Microenterprise Initiative" in partnership with the Congress.

(B) The initiative committed to expanding funding for the microenterprise programs of the Agency, and set a goal that, by the end of fiscal year 1996, one-half of all microenterprise resources would support programs and institutions that provide credit to the poorest, with loans under $300.

(C) In order to achieve the goal of the microcredit summit, increased investment in microfinance institutions serving the poorest will be critical.

(12) Providing the United States share of the global investment needed to achieve the goal of the microcredit summit will require only a small increase in United States funding for international microcredit programs, with an increased focus on institutions serving the poorest.

(13)(A) In order to reach tens of millions of the poorest with microcredit, it is crucial to expand and replicate successful microfinance institutions.

(B) These institutions need assistance in developing their institutional capacity to expand their services and tap commercial sources of capital.

(14) Nongovernmental organizations have demonstrated competence in developing networks of local microfinance institutions and other assistance delivery mechanisms so that they reach large numbers of the very poor, and achieve financial sustainability.

(15) Recognizing that the United States Agency for International Development has developed very effective partnerships with nongovernmental organizations, and that the Agency will have fewer missions overseas to carry out its work, the Agency should place priority on investing in those nongovernmental network institutions that meet performance criteria through the central funding mechanisms of the Agency.

(16) By expanding and replicating successful microfinance institutions, it should be possible to create a global infrastructure to provide financial services to the world's poorest families.

(17)(A) The United States can provide leadership to other bilateral and multilateral development agencies as such agencies expand their support to the microenterprise sector.

(B) The United States should seek to improve coordination among G–7 countries in the support of the microenterprise sector in order to leverage the investment of the United States with that of other donor nations.

(18) Through increased support for microenterprise, especially credit for the poorest, the United States can continue to play a leadership role in the global effort to expand financial services and opportunity to 100,000,000 of the poorest families on the planet.

SEC. 103.[3] PURPOSES.

The purposes of this title are—

(1) to make microenterprise development an important element of United States foreign economic policy and assistance;

(2) to provide for the continuation and expansion of the commitment of the United States Agency for International Development to the development of microenterprise institutions as outlined in its 1994 Microenterprise Initiative;

(3) to support and develop the capacity of United States and indigenous nongovernmental organization intermediaries to provide credit, savings, training, technical assistance, and business development services to microenterprise households;[4]

(4) to emphasize financial services and substantially increase the amount of assistance devoted to both financial services and complementary business development services designed to reach the poorest people in developing countries, particularly women;[5]

(5) to encourage the United States Agency for International Development to coordinate microenterprise policy,[6] in consultation with the Department of the Treasury and the Department of State, and to provide global leadership among bilateral and multilateral donors in promoting microenterprise for the very poor;[7] and

(6)[5] to ensure that in the implementation of this title at least 50 percent of all microenterprise assistance under this title, and the amendments made under this title, shall be targeted to the very poor.

SEC. 104.[3] DEFINITIONS.

In this title:

(1) BUSINESS DEVELOPMENT SERVICES.—The term "business development services" means support for the growth of microenterprises through training, technical assistance, marketing assistance, improved production technologies, and other services.

(2) MICROENTERPRISE INSTITUTION.—The term "microenterprise institution" means an institution that provides services,

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[4] Sec. 1(a)(1) of Public Law 108–31 (117 Stat. 775) struck out "microentrepreneurs" and inserted in lieu thereof "microenterprise households".

[5] Sec. 1(a)(2) of Public Law 108–31 (117 Stat. 775) struck out "and" at the end of para. (4). Sec. 1(a)(3)(C) of that Act struck out a period at the end of para. (5), and inserted in lieu thereof "; and". Sec. 1(a)(4) of that Act added a new para. (6).

[6] Sec. 1(a)(3)(A) of Public Law 108–31 (117 Stat. 775) struck out "microfinance policy" and inserted in lieu thereof "microenterprise policy".

[7] Sec. 1(a)(3)(B) of Public Law 108–31 (117 Stat. 775) struck out "the poorest of the poor" and inserted in lieu thereof "the very poor".

including microfinance, training, or business development services, to microentrepreneurs and their households.[8]

(3) MICROFINANCE INSTITUTION.—The term "microfinance institution" means an institution that directly provides, or works to expand, the availability of credit, savings, and other financial services to microentrepreneurs.

(4) PRACTITIONER INSTITUTION.—The term "practitioner institution" means any institution that provides services, including microfinance, training, or business development services, for microentrepreneurs, or provides assistance to microenterprise institutions.

(5)[9] VERY POOR.—The term "very poor" means individuals—

(A) living in the bottom 50 percent below the poverty line established by the national government of the country in which those individuals live; or

(B) living on the equivalent of less than $1 per day.

SEC. 105. MICROENTERPRISE DEVELOPMENT GRANT ASSISTANCE.

Chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) is amended by adding at the end the following new section: * * *[10]

SEC. 106. MICRO- AND SMALL ENTERPRISE DEVELOPMENT CREDITS.

Section 108 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151f) is amended to read as follows: * * *[11]

SEC. 107. UNITED STATES MICROFINANCE LOAN FACILITY.

(a) IN GENERAL.—Chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), as amended by section 105 of this Act, is further amended by adding at the end the following new section: * * *[12]

(b)[13] REPORT.—Not later than 120 days after the date of the enactment of this Act, the Administrator of the United States Agency for International Development shall submit to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives a report on the policies, rules, and regulations of the United States Microfinance Loan Facility established under section 132 of the Foreign Assistance Act of 1961, as added by subsection (a).

SEC. 108.[14] REPORT RELATING TO FUTURE DEVELOPMENT OF MICROENTERPRISE INSTITUTIONS.

(a) REPORT.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to the appropriate congressional committees a report on the most cost-effective methods

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[8] Sec. 1(b)(1) of Public Law 108–31 (117 Stat. 775) struck out "for microentrepreneurs" and inserted in lieu thereof "to microentrepreneurs and their households".

[9] Sec. 1(b)(2) of Public Law 108–31 (117 Stat. 775) added para. (5).

[10] Sec. 105 added a new sec. 131 to the Foreign Assistance Act of 1961 (at 22 U.S.C. 2152a), authorizing microenterprise development grant assistance.

[11] Sec. 106 amended and restated sec. 108 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151f) to pertain to micro- and small enterprise development credits.

[12] Sec. 107(a) added a new sec. 132 to the Foreign Assistance Act of 1961 (22 U.S.C. 2152b), establishing the U.S. Microfinance Loan Facility.

[13] 22 U.S.C. 2152b note. Sec. 3 of the Microenterprise Results and Accountability Act of 2004 (Public Law 108–484; 118 Stat. 3922) amended the Foreign Assistance Act of 1961 by creating a new title VI—Microenterprise Development Assistance. Sec. 5 of that Act redesignated 22 U.S.C. 2152b as 22 U.S.C. 2213.

[14] Sec. 4 of Public Law 108–31 (117 Stat. 775) required the following:

and measurements for increasing the access of poor people overseas to credit, other financial services, and related training.

(b) CONTENTS.—The report described in subsection (a)—

(1) shall include how the President, in consultation with the Administrator of the United States Agency for International Development, the Secretary of State, and the Secretary of the Treasury, will develop a comprehensive strategy for advancing the global microenterprise sector in a way that maintains market principles while ensuring that the very poor overseas, particularly women, obtain access to financial services overseas;

(2) shall provide guidelines and recommendations for—

(A) instruments to assist microenterprise networks to develop multi-country and regional microlending programs;

(B) technical assistance to foreign governments, foreign central banks, and regulatory entities to improve the policy environment for microfinance institutions, and to strengthen the capacity of supervisory bodies to supervise microfinance institutions;

(C) the potential for Federal chartering of United States-based international microfinance network institutions, including proposed legislation;

(D) instruments to increase investor confidence in microfinance institutions which would strengthen the long-term financial position of the microfinance institutions and attract capital from private sector entities and individuals, such as a rating system for microfinance institutions and local credit bureaus;

(E) an agenda for integrating microfinance into United States foreign policy initiatives seeking to develop and strengthen the global finance sector; and

(F) innovative instruments to attract funds from the capital markets, such as instruments for leveraging funds from the local commercial banking sector, and the securitization of microloan portfolios; and

(3) shall include a section that assesses the need for a microenterprise accelerated growth fund and that includes—

(A) a description of the benefits of such a fund;

(B) an identification of which microenterprise institutions might become eligible for assistance from such fund;

(C) a description of how such a fund could be administered;

(D) a recommendation on which agency or agencies of the United States Government should administer the fund

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"SEC. 4. REPORT TO CONGRESS.

"(a) IN GENERAL.—Not later than September 30, 2005, the Administrator of the United States Agency for International Development shall submit to Congress a report that documents the process of developing and applying poverty assessment procedures with its partners.

"(b) REPORTS FOR FISCAL YEAR 2006 AND BEYOND.—Beginning with fiscal year 2006, the Administrator of the United States Agency for International Development shall annually submit to Congress on a timely basis a report that addresses the United States Agency for International Development's compliance with the Microenterprise for Self-Reliance Act of 2000 by documenting—

"(1) the percentage of its resources that were allocated to the very poor (as defined in paragraph (5) of section 131(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2152a(f)(5))) based on the data collected from its partners using the certified methods; and

"(2) the absolute number of the very poor reached.".

and within which such agency the fund should be located; and

(E) a recommendation on how soon it might be necessary to establish such a fund in order to provide the support necessary for microenterprise institutions involved in microenterprise development.

(c) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term "appropriate congressional committees" means the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

SEC. 109. UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT AS GLOBAL LEADER AND COORDINATOR OF BILATERAL AND MULTILATERAL MICROENTERPRISE ASSISTANCE ACTIVITIES.

(a) FINDINGS AND POLICY.—Congress finds and declares that—

(1) the United States can provide leadership to other bilateral and multilateral development agencies as such agencies expand their support to the microenterprise sector; and

(2) the United States should seek to improve coordination among G–7 countries in the support of the microenterprise sector in order to leverage the investment of the United States with that of other donor nations.

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

(1) the Administrator of the United States Agency for International Development and the Secretary of State should seek to support and strengthen the effectiveness of microfinance activities in United Nations agencies, such as the United Nations Development Program (UNDP), which have provided key leadership in developing the microenterprise sector; and

(2) the Secretary of the Treasury should instruct each United States Executive Director of the multilateral development banks (MDBs) to advocate the development of a coherent and coordinated strategy to support the microenterprise sector and an increase of multilateral resource flows for the purposes of building microenterprise retail and wholesale intermediaries.

SEC. 110. SENSE OF THE CONGRESS ON CONSIDERATION OF MEXICO AS A KEY PRIORITY IN MICROENTERPRISE FUNDING ALLOCATIONS.

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

(1) An estimated 45,000,000 of Mexico's 100,000,000 population currently lives below the poverty line, accounting for 20 percent of all poor in Latin America.

(2) Mexico cannot create enough salaried jobs to absorb new workers entering the labor force.

(3) While many poor families depend on microenterprise initiatives to generate a livelihood, the United States Agency for International Development currently has two microcredit projects in Mexico, receiving less than 1 percent of overall microenterprise funding in Latin America and the Caribbean during the last decade.

(4) Mexico's microenterprise activity has been constrained because its financial institutions cannot expand financial services to a larger clientele due to a lack of capital, inefficient financial and administrative management, and a lack of institutional support for microfinance institutions' particular needs.

(5) Mexican nongovernmental organizations, such as Compartamos, have demonstrated competence in developing local microfinance programs.

(6) On July 2, 2000, Vicente Fox Quesada of the Alliance for Change was elected President of the United Mexican States.

(7) The President-elect of Mexico has identified entrepreneurship and the start-up of new microcredit institutions as key economic priorities.

(8) Microenterprise and entrepreneurial initiatives have proven to be successful components of free market development and economic stability.

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

(1) providing Mexico's poor with economic opportunity and microfinance services is fundamental to Mexico's economic development;

(2) microenterprise can have a positive impact on Mexico's free market development; and

(3) the United States Agency for International Development should consider Mexico as a key priority in its microenterprise funding allocations.

TITLE II—INTERNATIONAL ANTI-CORRUPTION AND GOOD GOVERNANCE ACT OF 2000

SEC. 201.[15] SHORT TITLE.

This title may be cited as the "International Anti-Corruption and Good Governance Act of 2000".

SEC. 202.[16] FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) Widespread corruption endangers the stability and security of societies, undermines democracy, and jeopardizes the social, political, and economic development of a society.

(2) Corruption facilitates criminal activities, such as money laundering, hinders economic development, inflates the costs of doing business, and undermines the legitimacy of the government and public trust.

(3) In January 1997 the United Nations General Assembly adopted a resolution urging member states to carefully consider the problems posed by the international aspects of corrupt practices and to study appropriate legislative and regulatory measures to ensure the transparency and integrity of financial systems.

(4) The United States was the first country to criminalize international bribery through the enactment of the Foreign Corrupt Practices Act of 1977 and United States leadership

[15] 22 U.S.C. 2151 note.
[16] 22 U.S.C. 2151c note.

was instrumental in the passage of the Organization for Economic Cooperation and Development (OECD) Convention on Combatting Bribery of Foreign Public Officials in International Business Transactions.

(5) The Vice President, at the Global Forum on Fighting Corruption in 1999, declared corruption to be a direct threat to the rule of law and the Secretary of State declared corruption to be a matter of profound political and social consequence for our efforts to strengthen democratic governments.

(6) The Secretary of State, at the Inter-American Development Bank's annual meeting in March 2000, declared that despite certain economic achievements, democracy is being threatened as citizens grow weary of the corruption and favoritism of their official institutions and that efforts must be made to improve governance if respect for democratic institutions is to be regained.

(7) In May 1996 the Organization of American States (OAS) adopted the Inter-American Convention Against Corruption requiring countries to provide various forms of international cooperation and assistance to facilitate the prevention, investigation, and prosecution of acts of corruption.

(8) Independent media, committed to fighting corruption and trained in investigative journalism techniques, can both educate the public on the costs of corruption and act as a deterrent against corrupt officials.

(9) Competent and independent judiciary, founded on a merit-based selection process and trained to enforce contracts and protect property rights, is critical for creating a predictable and consistent environment for transparency in legal procedures.

(10) Independent and accountable legislatures, responsive political parties, and transparent electoral processes, in conjunction with professional, accountable, and transparent financial management and procurement policies and procedures, are essential to the promotion of good governance and to the combat of corruption.

(11) Transparent business frameworks, including modern commercial codes and intellectual property rights, are vital to enhancing economic growth and decreasing corruption at all levels of society.

(12) The United States should attempt to improve accountability in foreign countries, including by—

(A) promoting transparency and accountability through support for independent media, promoting financial disclosure by public officials, political parties, and candidates for public office, open budgeting processes, adequate and effective internal control systems, suitable financial management systems, and financial and compliance reporting;

(B) supporting the establishment of audit offices, inspectors general offices, third party monitoring of government procurement processes, and anti-corruption agencies;

(C) promoting responsive, transparent, and accountable legislatures that ensure legislative oversight and whistleblower protection;

(D) promoting judicial reforms that criminalize corruption and promoting law enforcement that prosecutes corruption;

(E) fostering business practices that promote transparent, ethical, and competitive behavior in the private sector through the development of an effective legal framework for commerce, including anti-bribery laws, commercial codes that incorporate international standards for business practices, and protection of intellectual property rights; and

(F) promoting free and fair national, state, and local elections.

(b) PURPOSE.—The purpose of this title is to ensure that United States assistance programs promote good governance by assisting other countries to combat corruption throughout society and to improve transparency and accountability at all levels of government and throughout the private sector.

SEC. 203. DEVELOPMENT ASSISTANCE POLICY.

(a) GENERAL POLICY.—Section 101(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151(a)) is amended in the fifth sentence—* * *[17]

(b) DEVELOPMENT ASSISTANCE POLICY.—Section 102(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151–1(b)) is amended—* * *[17]

SEC. 204. DEPARTMENT OF THE TREASURY TECHNICAL ASSISTANCE PROGRAM FOR DEVELOPING COUNTRIES.

Section 129(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151aa(b)) is amended by adding at the end the following: * * *[18]

SEC. 205. AUTHORIZATION OF GOOD GOVERNANCE PROGRAMS.

(a) IN GENERAL.—Chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), as amended by sections 105 and 107, is further amended by adding at the end the following: * * *[19]

(b)[20] DEADLINE FOR INITIAL REPORT.—The initial annual report required by section 133(d)(1) of the Foreign Assistance Act of 1961, as added by subsection (a), shall be transmitted not later than 180 days after the date of the enactment of this Act.

TITLE III—INTERNATIONAL ACADEMIC OPPORTUNITY ACT OF 2000[21]

* * * * * * *

[17] See the Foreign Assistance Act of 1961, as amended, in *Legislation on Foreign Relations Through 2004*, vol. I–A.

[18] See the Foreign Assistance Act of 1961, as amended, in *Legislation on Foreign Relations Through 2004*, vol. I–A.

[19] Sec. 205(a) added a new sec. 133 to the Foreign Assistance Act of 1961 (22 U.S.C. 2152c), establishing programs "to encourage good governance".

[20] 22 U.S.C. 2152c note.

[21] For text of title III, see *Legislation on Foreign Relations Through 2004*, vol. II.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401.[22] SUPPORT FOR OVERSEAS COOPERATIVE DEVELOPMENT ACT.

(a) SHORT TITLE.—This section may be cited as the "Support for Overseas Cooperative Development Act".

(b)[23] FINDINGS.—The Congress makes the following findings:

(1) It is in the mutual economic interest of the United States and peoples in developing and transitional countries to promote cooperatives and credit unions.

(2) Self-help institutions, including cooperatives and credit unions, provide enhanced opportunities for people to participate directly in democratic decision-making for their economic and social benefit through ownership and control of business enterprises and through the mobilization of local capital and savings and such organizations should be fully utilized in fostering free market principles and the adoption of self-help approaches to development.

(3) The United States seeks to encourage broad-based economic and social development by creating and supporting—

(A) agricultural cooperatives that provide a means to lift low income farmers and rural people out of poverty and to better integrate them into national economies;

(B) credit union networks that serve people of limited means through safe savings and by extending credit to families and microenterprises;

(C) electric and telephone cooperatives that provide rural customers with power and telecommunications services essential to economic development;

(D) housing and community-based cooperatives that provide low income shelter and work opportunities for the urban poor; and

(E) mutual and cooperative insurance companies that provide risk protection for life and property to underserved populations often through group policies.

(c) GENERAL PROVISIONS.—

(1)[23] DECLARATIONS OF POLICY.—The Congress supports the development and expansion of economic assistance programs that fully utilize cooperatives and credit unions, particularly those programs committed to—

(A) international cooperative principles, democratic governance and involvement of women and ethnic minorities for economic and social development;

(B) self-help mobilization of member savings and equity and retention of profits in the community, except for those programs that are dependent on donor financing;

(C) market-oriented and value-added activities with the potential to reach large numbers of low income people and help them enter into the mainstream economy;

(D) strengthening the participation of rural and urban poor to contribute to their country's economic development; and

[22] 22 U.S.C. 2151 note.
[23] 22 U.S.C. 2151i note.

(E) utilization of technical assistance and training to better serve the member-owners.

(2) DEVELOPMENT PRIORITIES.—Section 111 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151i) is amended by adding at the end the following: * * *[24]

(d)[23] REPORT.—Not later than 6 months after the date of the enactment of this Act, the Administrator of the United States Agency for International Development, in consultation with the heads of other appropriate agencies, shall prepare and submit to Congress a report on the implementation of section 111 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151i), as amended by subsection (c).

SEC. 402. FUNDING OF CERTAIN ENVIRONMENTAL ASSISTANCE ACTIVITIES OF USAID.

(a) ALLOCATION OF FUNDS FOR CERTAIN ENVIRONMENTAL ACTIVITIES.—Of the amounts authorized to be appropriated for the fiscal year 2001 to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.; relating to development assistance), there is authorized to be available at least $60,200,000 to carry out activities of the type carried out by the Global Environment Center of the United States Agency for International Development during fiscal year 2000.

(b) ALLOCATION FOR WATER AND COASTAL RESOURCES.—Of the amounts made available under subsection (a), at least $2,500,000 shall be available for water and coastal resources activities under the natural resources management function specified in that subsection.

SEC. 403.[25] PROCESSING OF APPLICATIONS FOR TRANSPORTATION OF HUMANITARIAN ASSISTANCE ABROAD BY THE DEPARTMENT OF DEFENSE.

(a) PRIORITY FOR DISASTER RELIEF ASSISTANCE.—In processing applications for the transportation of humanitarian assistance abroad under section 402 of title 10, United States Code, the Administrator of the United States Agency for International Development shall afford a priority to applications for the transportation of disaster relief assistance.

(b) MODIFICATION OF APPLICATIONS.—The Administrator of the United States Agency for International Development shall take all possible actions to assist applicants for the transportation of humanitarian assistance abroad under such section 402 in modifying or completing applications submitted under such section in order to meet applicable requirements under such section. The actions shall include efforts to contact such applicants for purposes of the modification or completion of such applications.

SEC. 404. WORKING CAPITAL FUND.

Section 635 of the Foreign Assistance Act of 1961 (22 U.S.C. 2395) is amended by adding at the end the following new subsection: * * *[26]

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[24] For amended text of the Foreign Assistance Act of 1961, see *Legislation on Foreign Relations Through 2004*, vol. I–A.

[25] 10 U.S.C. 402 note.

[26] For amended text, see *Legislation on Foreign Relations Through 2004*, vol. I–A.

SEC. 405. INCREASE IN AUTHORIZED NUMBER OF EMPLOYEES AND REPRESENTATIVES OF THE UNITED STATES MISSION TO THE UNITED NATIONS PROVIDED LIVING QUARTERS IN NEW YORK.

Section 9(2) of the United Nations Participation Act of 1945 (22 U.S.C. 287e–1(2)) is amended by striking "18" and inserting "30".[27]

SEC. 406. AVAILABILITY OF VOA AND RADIO MARTI MULTILINGUAL COMPUTER READABLE TEXT AND VOICE RECORDINGS.

Section 1(b) of Public Law 104–269 (110 Stat. 3300) is amended by striking "5 years" and inserting "10 years".

SEC. 407.[28] AVAILABILITY OF CERTAIN MATERIALS OF THE VOICE OF AMERICA. * * *

SEC. 408.[29] PAUL D. COVERDELL FELLOWS PROGRAM ACT OF 2000. * * *

(a) SHORT TITLE.—This section may be cited as the "Paul D. Coverdell Fellows Program Act of 2000".

* * * * * * *

[27] See *Legislation on Foreign Relations Through 2004*, vol. II.
[28] For text of sec. 407, see *Legislation on Foreign Relations Through 2004*, vol. II.
[29] 22 U.S.C. 2517 note. For text, see Peace Corps section, this volume.

(3) Global AIDS and Tuberculosis Relief Act of 2000

Partial text of Public Law 106–264 [H.R. 3519], 114 Stat. 748, approved August 19, 2000

AN ACT To provide for negotiations for the creation of a trust fund to be administered by the International Bank for Reconstruction and Development or the International Development Association to combat the AIDS epidemic.

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

SECTION 1.[1] SHORT TITLE.

This Act may be cited as the "Global AIDS and Tuberculosis Relief Act of 2000".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Page

Sec. 1. Short title 509
Sec. 2. Table of contents 509

TITLE I—ASSISTANCE TO COUNTRIES WITH LARGE POPULATIONS HAVING HIV/AIDS

Sec. 101. Short title 510
Sec. 102. Definitions 510
Sec. 103. Findings and purposes 510

Subtitle A—United States Assistance

Sec. 111. Additional assistance authorities to combat HIV and AIDS 512
Sec. 112. Voluntary contribution to Global Alliance for Vaccines and Immunizations and International AIDS Vaccine Initiative 513
Sec. 113. Coordinated donor strategy for support and education of orphans in sub-Saharan Africa 513
Sec. 114. African Crisis Response Initiative and HIV/AIDS training 514

Subtitle B—World Bank AIDS Trust Fund

Chapter 1—Establishment of the Fund

Sec. 121. Establishment 514
Sec. 122. Grant authorities 515
Sec. 123. Administration 516
Sec. 124. Advisory Board 516

Chapter 2—Reports

Sec. 131. Reports to Congress 517

Chapter 3—United States Financial Participation

Sec. 141. Authorization of appropriations 518
Sec. 142. Certification requirement 518

TITLE II—INTERNATIONAL TUBERCULOSIS CONTROL

Sec. 201. Short title 518
Sec. 202. Findings 518

[1] 22 U.S.C. 6801 note.

Sec. 203. Assistance for tuberculosis prevention, treatment, control, and elimination 519

TITLE III—ADMINISTRATIVE AUTHORITIES

Sec. 301. Effective program oversight 520
Sec. 302. Termination expenses 520

TITLE I—ASSISTANCE TO COUNTRIES WITH LARGE POPULATIONS HAVING HIV/AIDS

SEC. 101.[2] SHORT TITLE.

This title may be cited as the "Global AIDS Research and Relief Act of 2000".

SEC. 102.[2] DEFINITIONS.

In this title:

(1) AIDS.—The term "AIDS" means the acquired immune deficiency syndrome.

(2) ASSOCIATION.—The term "Association" means the International Development Association.

(3) BANK.—The term "Bank" or "World Bank" means the International Bank for Reconstruction and Development.

(4) HIV.—The term "HIV" means the human immunodeficiency virus, the pathogen which causes AIDS.

(5) HIV/AIDS.—The term "HIV/AIDS" means, with respect to an individual, an individual who is infected with HIV or living with AIDS.

SEC. 103.[3] FINDINGS AND PURPOSES.

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

(1) According to the Surgeon General of the United States, the epidemic of human immunodeficiency virus/acquired immune deficiency syndrome (HIV/AIDS) will soon become the worst epidemic of infectious disease in recorded history, eclipsing both the bubonic plague of the 1300's and the influenza epidemic of 1918–1919 which killed more than 20,000,000 people worldwide.

(2) According to the Joint United Nations Programme on HIV/AIDS (UNAIDS), more than 34,300,000 people in the world today are living with HIV/AIDS, of which approximately 95 percent live in the developing world.

(3) UNAIDS data shows that among children age 14 and under worldwide, more than 3,800,000 have died from AIDS, more than 1,300,000 are living with the disease; and in 1 year alone—1999—an estimated 620,000 became infected, of which over 90 percent were babies born to HIV-positive women.

(4) Although sub-Saharan Africa has only 10 percent of the world's population, it is home to more than 24,500,000—roughly 70 percent—of the world's HIV/AIDS cases.

(5) Worldwide, there have already been an estimated 18,800,000 deaths because of HIV/AIDS, of which more than 80 percent occurred in sub-Saharan Africa.

(6) The gap between rich and poor countries in terms of transmission of HIV from mother to child has been increasing.

[2] 22 U.S.C. 6801 note.
[3] 22 U.S.C. 6802.

Moreover, AIDS threatens to reverse years of steady progress of child survival in developing countries. UNAIDS believes that by the year 2010, AIDS may have increased mortality of children under 5 years of age by more than 100 percent in regions most affected by the virus.

(7) According to UNAIDS, by the end of 1999, 13,200,000 children have lost at least one parent to AIDS, including 12,100,000 children in sub-Saharan Africa, and are thus considered AIDS orphans.

(8) At current infection and growth rates for HIV/AIDS, the National Intelligence Council estimates that the number of AIDS orphans worldwide will increase dramatically, potentially increasing threefold or more in the next 10 years, contributing to economic decay, social fragmentation, and political destabilization in already volatile and strained societies. Children without care or hope are often drawn into prostitution, crime, substance abuse, or child soldiery.

(9) Donors must focus on adequate preparations for the explosion in the number of orphans and the burden they will place on families, communities, economies, and governments. Support structures and incentives for families, communities, and institutions which will provide care for children orphaned by HIV/AIDS, or for the children who are themselves afflicted by HIV/AIDS, will be essential.

(10) The 1999 annual report by the United Nations Children's Fund (UNICEF) states "[t]he number of orphans, particularly in Africa, constitutes nothing less than an emergency, requiring an emergency response" and that "finding the resources needed to help stabilize the crisis and protect children is a priority that requires urgent action from the international community.".

(11) The discovery of a relatively simple and inexpensive means of interrupting the transmission of HIV from an infected mother to the unborn child—namely with nevirapine (NVP), which costs US$4 a tablet—has created a great opportunity for an unprecedented partnership between the United States Government and the governments of Asian, African and Latin American countries to reduce mother-to-child transmission (also known as "vertical transmission") of HIV.

(12) According to UNAIDS, if implemented this strategy will decrease the proportion of orphans that are HIV-infected and decrease infant and child mortality rates in these developing regions.

(13) A mother-to-child antiretroviral drug strategy can be a force for social change, providing the opportunity and impetus needed to address often long-standing problems of inadequate services and the profound stigma associated with HIV-infection and the AIDS disease. Strengthening the health infrastructure to improve mother-and-child health, antenatal, delivery and postnatal services, and couples counseling generates enormous spillover effects toward combating the AIDS epidemic in developing regions.

(14) United States Census Bureau statistics show life expectancy in sub-Saharan Africa falling to around 30 years of age

within a decade, the lowest in a century, and project life expectancy in 2010 to be 29 years of age in Botswana, 30 years of age in Swaziland, 33 years of age in Namibia and Zimbabwe, and 36 years of age in South Africa, Malawi, and Rwanda, in contrast to a life expectancy of 70 years of age in many of the countries without a high prevalence of AIDS.

(15) A January 2000 United States National Intelligence Estimate (NIE) report on the global infectious disease threat concluded that the economic costs of infectious diseases—especially HIV/AIDS—are already significant and could reduce GDP by as much as 20 percent or more by 2010 in some sub-Saharan African nations.

(16) According to the same NIE report, HIV prevalence among militias in Angola and the Democratic Republic of the Congo are estimated at 40 to 60 percent, and at 15 to 30 percent in Tanzania.

(17) The HIV/AIDS epidemic is of increasing concern in other regions of the world, with UNAIDS estimating that there are more than 5,600,000 cases in South and South-east Asia, that the rate of HIV infection in the Caribbean is second only to sub-Saharan Africa, and that HIV infections have doubled in just 2 years in the former Soviet Union.

(18) Despite the discouraging statistics on the spread of HIV/AIDS, some developing nations—such as Uganda, Senegal, and Thailand—have implemented prevention programs that have substantially curbed the rate of HIV infection.

(19) AIDS, like all diseases, knows no national boundaries, and there is no certitude that the scale of the problem in one continent can be contained within that region.

(20) Accordingly, United States financial support for medical research, education, and disease containment as a global strategy has beneficial ramifications for millions of Americans and their families who are affected by this disease, and the entire population which is potentially susceptible.

(b) PURPOSES.—The purposes of this title are to—

(1) help prevent human suffering through the prevention, diagnosis, and treatment of HIV/AIDS; and

(2) help ensure the viability of economic development, stability, and national security in the developing world by advancing research to—

(A) understand the causes associated with HIV/AIDS in developing countries; and

(B) assist in the development of an AIDS vaccine.

Subtitle A—United States Assistance

SEC. 111. ADDITIONAL ASSISTANCE AUTHORITIES TO COMBAT HIV AND AIDS.

(a) ASSISTANCE FOR PREVENTION OF HIV/AIDS AND VERTICAL TRANSMISSION.—Section 104(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c)) is amended by adding at the end the following new paragraphs: * * *[4]

[4] Sec. 111(a) added paras. (4) through (6) to sec. 104(c) of the Foreign Assistance Act of 1961.

(b) TRAINING AND TRAINING FACILITIES IN SUB-SAHARAN AFRICA.—Section 496(i)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2293(i)(2)) is amended by adding at the end the following new sentence: "In addition, providing training and training facilities, in sub-Saharan Africa, for doctors and other health care providers, notwithstanding any provision of law that restricts assistance to foreign countries.".

SEC. 112. VOLUNTARY CONTRIBUTION TO GLOBAL ALLIANCE FOR VACCINES AND IMMUNIZATIONS AND INTERNATIONAL AIDS VACCINE INITIATIVE.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 302 of the Foreign Assistance Act of 1961 (22 U.S.C. 2222) is amended by adding at the end the following new subsections: * * *[5]

(b) REPORT.—At the close of fiscal year 2001, the President shall submit a report to the appropriate congressional committees on the effectiveness of the Global Alliance for Vaccines and Immunizations and the International AIDS Vaccine Initiative during that fiscal year in meeting the goals of—

(1) improving access to sustainable immunization services;

(2) expanding the use of all existing, safe, and cost-effective vaccines where they address a public health problem;

(3) accelerating the development and introduction of new vaccines and technologies;

(4) accelerating research and development efforts for vaccines needed primarily in developing countries; and

(5) making immunization coverage a centerpiece in international development efforts.

(c) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In subsection (b), the term "appropriate congressional committees" means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on International Relations and the Committee on Appropriations of the House of Representatives.

SEC. 113.[6] COORDINATED DONOR STRATEGY FOR SUPPORT AND EDUCATION OF ORPHANS IN SUB-SAHARAN AFRICA.

(a) STATEMENT OF POLICY.—It is in the national interest of the United States to assist in mitigating the burden that will be placed on sub-Saharan African social, economic, and political institutions as these institutions struggle with the consequences of a dramatically increasing AIDS orphan population, many of whom are themselves infected by HIV and living with AIDS. Effectively addressing that burden and its consequences in sub-Saharan Africa will require a coordinated multidonor strategy.

(b) DEVELOPMENT OF STRATEGY.—The President shall coordinate the development of a multidonor strategy to provide for the support and education of AIDS orphans and the families, communities, and institutions most affected by the HIV/AIDS epidemic in sub-Saharan Africa.

(c) DEFINITION.—In this section, the term "HIV/AIDS" means, with respect to an individual, an individual who is infected with the human immunodeficiency virus (HIV), the pathogen that

[5] Sec. 112(a) added new subsecs. (k) and (l) to sec. 302 of the Foreign Assistance Act of 1961.
[6] 22 U.S.C. 6811.

causes the acquired immune deficiency virus (AIDS), or living with AIDS.

SEC. 114.[7] AFRICAN CRISIS RESPONSE INITIATIVE AND HIV/AIDS TRAINING.

(a) FINDINGS.—Congress finds that—

(1) the spread of HIV/AIDS constitutes a threat to security in Africa;

(2) civil unrest and war may contribute to the spread of the disease to different parts of the continent;

(3) the percentage of soldiers in African militaries who are infected with HIV/AIDS is unknown, but estimates range in some countries as high as 40 percent; and

(4) it is in the interests of the United States to assist the countries of Africa in combating the spread of HIV/AIDS.

(b) EDUCATION ON THE PREVENTION OF THE SPREAD OF AIDS.—In undertaking education and training programs for military establishments in African countries, the United States shall ensure that classroom training under the African Crisis Response Initiative includes military-based education on the prevention of the spread of AIDS.

Subtitle B—World Bank AIDS Trust Fund

CHAPTER 1—ESTABLISHMENT OF THE FUND

SEC. 121.[8] ESTABLISHMENT.

(a) NEGOTIATIONS FOR ESTABLISHMENT OF TRUST FUND.—The Secretary of the Treasury shall seek to enter into negotiations with the World Bank or the Association, in consultation with the Administrator of the United States Agency for International Development and other United States Government agencies, and with the member nations of the World Bank or the Association and with other interested parties, for the establishment within the World Bank of—

(1) the World Bank AIDS Trust Fund (in this subtitle referred to as the "Trust Fund") in accordance with the provisions of this chapter; and

(2) the Advisory Board to the Trust Fund in accordance with section 124.

(b) PURPOSE.—The purpose of the Trust Fund should be to use contributed funds to—

(1) assist in the prevention and eradication of HIV/AIDS and the care and treatment of individuals infected with HIV/AIDS; and

(2) provide support for the establishment of programs that provide health care and primary and secondary education for children orphaned by the HIV/AIDS epidemic.

(c) COMPOSITION.—

(1) IN GENERAL.—The Trust Fund should be governed by a Board of Trustees, which should be composed of representatives of the participating donor countries to the Trust Fund. Individuals appointed to the Board should have demonstrated

[7] 22 U.S.C. 6812.
[8] 22 U.S.C. 6821.

knowledge and experience in the fields of public health, epidemiology, health care (including delivery systems), and development.

(2) UNITED STATES REPRESENTATION.—

(A) IN GENERAL.—Upon the effective date of this paragraph, there shall be a United States member of the Board of Trustees, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall have the qualifications described in paragraph (1).

(B) EFFECTIVE AND TERMINATION DATES.—

(i) EFFECTIVE DATE.—This paragraph shall take effect upon the date the Secretary of the Treasury certifies to Congress that an agreement establishing the Trust Fund and providing for a United States member of the Board of Trustees is in effect.

(ii) TERMINATION DATE.—The position established by subparagraph (A) is abolished upon the date of termination of the Trust Fund.

SEC. 122.[9] GRANT AUTHORITIES.

(a) PROGRAM OBJECTIVES.—

(1) IN GENERAL.—In carrying out the purpose of section 121(b), the Trust Fund, acting through the Board of Trustees, should provide only grants, including grants for technical assistance to support measures to build local capacity in national and local government, civil society, and the private sector to lead and implement effective and affordable HIV/AIDS prevention, education, treatment and care services, and research and development activities, including access to affordable drugs.

(2) Activities supported.—Among the activities the Trust Fund should provide grants for should be—

(A) programs to promote the best practices in prevention, including health education messages that emphasize risk avoidance such as abstinence;

(B) measures to ensure a safe blood supply;

(C) voluntary HIV/AIDS testing and counseling;

(D) measures to stop mother-to-child transmission of HIV/AIDS, including through diagnosis of pregnant women, access to cost-effective treatment and counseling, and access to infant formula or other alternatives for infant feeding;

(E) programs to provide for the support and education of AIDS orphans and the families, communities, and institutions most affected by the HIV/AIDS epidemic;

(F) measures for the deterrence of gender-based violence and the provision of post-exposure prophylaxis to victims of rape and sexual assault; and

(G) incentives to promote affordable access to treatments against AIDS and related infections.

(3) IMPLEMENTATION OF PROGRAM OBJECTIVES.—In carrying out the objectives of paragraph (1), the Trust Fund should coordinate its activities with governments, civil society, nongovernmental organizations, the Joint United Nations Program

[9] 22 U.S.C. 6822.

on HIV/AIDS (UNAIDS), the International Partnership Against AIDS in Africa, other international organizations, the private sector, and donor agencies working to combat the HIV/AIDS crisis.

(b) PRIORITY.—In providing grants under this section, the Trust Fund should give priority to countries that have the highest HIV/AIDS prevalence rate or are at risk of having a high HIV/AIDS prevalence rate.

(c) ELIGIBLE GRANT RECIPIENTS.—Governments and nongovernmental organizations should be eligible to receive grants under this section.

(d) PROHIBITION.—The Trust Fund should not make grants for the purpose of project development associated with bilateral or multilateral bank loans.

SEC. 123.[10] ADMINISTRATION.

(a) APPOINTMENT OF AN ADMINISTRATOR.—The Board of Trustees, in consultation with the appropriate officials of the Bank, should appoint an Administrator who should be responsible for managing the day-to-day operations of the Trust Fund.

(b) AUTHORITY TO SOLICIT AND ACCEPT CONTRIBUTIONS.—The Trust Fund should be authorized to solicit and accept contributions from governments, the private sector, and nongovernmental entities of all kinds.

(c) ACCOUNTABILITY OF FUNDS AND CRITERIA FOR PROGRAMS.—As part of the negotiations described in section 121(a), the Secretary of the Treasury shall, consistent with subsection (d)—

(1) take such actions as are necessary to ensure that the Bank or the Association will have in effect adequate procedures and standards to account for and monitor the use of funds contributed to the Trust Fund, including the cost of administering the Trust Fund; and

(2) seek agreement on the criteria that should be used to determine the programs and activities that should be assisted by the Trust Fund.

(d) SELECTION OF PROJECTS AND RECIPIENTS.—The Board of Trustees should establish—

(1) criteria for the selection of projects to receive support from the Trust Fund;

(2) standards and criteria regarding qualifications of recipients of such support;

(3) such rules and procedures as may be necessary for cost-effective management of the Trust Fund; and

(4) such rules and procedures as may be necessary to ensure transparency and accountability in the grant-making process.

(e) TRANSPARENCY OF OPERATIONS.—The Board of Trustees should ensure full and prompt public disclosure of the proposed objectives, financial organization, and operations of the Trust Fund.

SEC. 124.[11] ADVISORY BOARD.

(a) IN GENERAL.—There should be an Advisory Board to the Trust Fund.

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[10] 22 U.S.C. 6823.
[11] 22 U.S.C. 6824.

(b) APPOINTMENTS.—The members of the Advisory Board should be drawn from—

(1) a broad range of individuals with experience and leadership in the fields of development, health care (especially HIV/AIDS), epidemiology, medicine, biomedical research, and social sciences; and

(2) representatives of relevant United Nations agencies and nongovernmental organizations with on-the-ground experience in affected countries.

(c) RESPONSIBILITIES.—The Advisory Board should provide advice and guidance to the Board of Trustees on the development and implementation of programs and projects to be assisted by the Trust Fund and on leveraging donations to the Trust Fund.

(d) PROHIBITION ON PAYMENT OF COMPENSATION.—

(1) IN GENERAL.—Except for travel expenses (including per diem in lieu of subsistence), no member of the Advisory Board should receive compensation for services performed as a member of the Board.

(2) UNITED STATES REPRESENTATIVE.—Notwithstanding any other provision of law (including an international agreement), a representative of the United States on the Advisory Board may not accept compensation for services performed as a member of the Board, except that such representative may accept travel expenses, including per diem in lieu of subsistence, while away from the representative's home or regular place of business in the performance of services for the Board.

CHAPTER 2—REPORTS

SEC. 131.[12] REPORTS TO CONGRESS.

(a) ANNUAL REPORTS BY TREASURY SECRETARY.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter for the duration of the Trust Fund, the Secretary of the Treasury shall submit to the appropriate committees of Congress a report on the Trust Fund.

(2) REPORT ELEMENTS.—The report shall include a description of—

(A) the goals of the Trust Fund;

(B) the programs, projects, and activities, including any vaccination approaches, supported by the Trust Fund;

(C) private and governmental contributions to the Trust Fund; and

(D) the criteria that have been established, acceptable to the Secretary of the Treasury and the Administrator of the United States Agency for International Development, that would be used to determine the programs and activities that should be assisted by the Trust Fund.

(b) GAO REPORT ON TRUST FUND EFFECTIVENESS.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the appropriate committees of the Congress a report evaluating the effectiveness of the Trust Fund, including—

[12] 22 U.S.C. 6831.

(1) the effectiveness of the programs, projects, and activities described in subsection (a)(2)(B) in reducing the worldwide spread of AIDS; and

(2) an assessment of the merits of continued United States financial contributions to the Trust Fund.

(c) APPROPRIATE COMMITTEES DEFINED.—In subsection (a), the term "appropriate committees" means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on International Relations, the Committee on Banking and Financial Services, and the Committee on Appropriations of the House of Representatives.

CHAPTER 3—UNITED STATES FINANCIAL PARTICIPATION

SEC. 141.[13] AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—In addition to any other funds authorized to be appropriated for multilateral or bilateral programs related to HIV/AIDS or economic development, there is authorized to be appropriated to the Secretary of the Treasury $150,000,000 for each of the fiscal years 2001 and 2002 for payment to the Trust Fund.

(b) ALLOCATION OF FUNDS.—Of the amounts authorized to be appropriated by subsection (a) for the fiscal years 2001 and 2002, $50,000,000 are authorized to be available each such fiscal year only for programs that benefit orphans.

SEC. 142.[14] CERTIFICATION REQUIREMENT.

(a) IN GENERAL.—Prior to the initial obligation or expenditure of funds appropriated pursuant to section 141, the Secretary of the Treasury shall certify that adequate procedures and standards have been established to ensure accountability for and monitoring of the use of funds contributed to the Trust Fund, including the cost of administering the Trust Fund.

(b) TRANSMITTAL OF CERTIFICATION.—The certification required by subsection (a), and the bases for that certification, shall be submitted by the Secretary of the Treasury to Congress.

TITLE II—INTERNATIONAL TUBERCULOSIS CONTROL

SEC. 201.[15] SHORT TITLE.

This title may be cited as the "International Tuberculosis Control Act of 2000".

SEC. 202.[16] FINDINGS.

Congress makes the following findings:

(1) Since the development of antibiotics in the 1950s, tuberculosis has been largely controlled in the United States and the Western World.

(2) Due to societal factors, including growing urban decay, inadequate health care systems, persistent poverty, overcrowding, and malnutrition, as well as medical factors, including the HIV/AIDS epidemic and the emergence of multi-drug resistant strains of tuberculosis, tuberculosis has again become

[13] 22 U.S.C. 6841.
[14] 22 U.S.C. 6842.
[15] 22 U.S.C. 2151 note.
[16] 22 U.S.C. 2151b note.

a leading and growing cause of adult deaths in the developing world.

(3) According to the World Health Organization—

(A) in 1998, about 1,860,000 people worldwide died of tuberculosis-related illnesses;

(B) one-third of the world's total population is infected with tuberculosis; and

(C) tuberculosis is the world's leading killer of women between 15 and 44 years old and is a leading cause of children becoming orphans.

(4) Because of the ease of transmission of tuberculosis, its international persistence and growth pose a direct public health threat to those nations that had previously largely controlled the disease. This is complicated in the United States by the growth of the homeless population, the rate of incarceration, international travel, immigration, and HIV/AIDS.

(5) With nearly 40 percent of the tuberculosis cases in the United States attributable to foreign-born persons, tuberculosis will never be controlled in the United States until it is controlled abroad.

(6) The means exist to control tuberculosis through screening, diagnosis, treatment, patient compliance, monitoring, and ongoing review of outcomes.

(7) Efforts to control tuberculosis are complicated by several barriers, including—

(A) the labor intensive and lengthy process involved in screening, detecting, and treating the disease;

(B) a lack of funding, trained personnel, and medicine in virtually every nation with a high rate of the disease;

(C) the unique circumstances in each country, which requires the development and implementation of country-specific programs; and

(D) the risk of having a bad tuberculosis program, which is worse than having no tuberculosis program because it would significantly increase the risk of the development of more widespread drug-resistant strains of the disease.

(8) Eliminating the barriers to the international control of tuberculosis through a well-structured, comprehensive, and coordinated worldwide effort would be a significant step in dealing with the increasing public health problem posed by the disease.

SEC. 203. ASSISTANCE FOR TUBERCULOSIS PREVENTION, TREATMENT, CONTROL, AND ELIMINATION.

Section 104(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c)), as amended by section 111(a) of this Act, is further amended by adding at the end the following: * * *[17]

[17] For text of the Foreign Assistance Act of 1961, as amended, see *Legislation on Foreign Relations Through 2004*, vol. I–A.

TITLE III—ADMINISTRATIVE AUTHORITIES

SEC. 301. EFFECTIVE PROGRAM OVERSIGHT.

Section 635 of the Foreign Assistance Act of 1961 (22 U.S.C. 2395) is amended by adding at the end thereof the following new subsection:

"(l) The Administrator of the agency primarily responsible for administering part I may use funds made available under that part to provide program and management oversight for activities that are funded under that part and that are conducted in countries in which the agency does not have a field mission or office.".

SEC. 302. TERMINATION EXPENSES.

Section 617 of the Foreign Assistance Act of 1961 (22 U.S.C. 2367) is amended to read as follows: * * *[18]

[18] For amended text, see *Legislation on Foreign Relations Through 2004*, vol. I–A.

(4) Access to HIV/AIDS Pharmaceuticals and Medical Technologies

Executive Order 13155, May 10, 2000, 65 F.R. 30521, 19 U.S.C. 2411 note

By the authority vested in me as President by the Constitution and the laws of the United States of America, including sections 141 and chapter 1 of title III of the Trade Act of 1974, as amended (19 U.S.C. 2171, 2411–2420), section 307 of the Public Health Service Act (42 U.S.C. 2421), and section 104 of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2151b), and in accordance with executive branch policy on health-related intellectual property matters to promote access to essential medicines, it is hereby ordered as follows:

Section 1. *Policy.* (a) In administering sections 301–310 of the Trade Act of 1974, the United States shall not seek, through negotiation or otherwise, the revocation or revision of any intellectual property law or policy of a beneficiary sub-Saharan African country, as determined by the President, that regulates HIV/AIDS pharmaceuticals or medical technologies if the law or policy of the country:

(1) promotes access to HIV/AIDS pharmaceuticals or medical technologies for affected populations in that country; and

(2) provides adequate and effective intellectual property protection consistent with the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) referred to in section 101(d)(15) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(15)).

(b) The United States shall encourage all beneficiary sub-Saharan African countries to implement policies designed to address the underlying causes of the HIV/AIDS crisis by, among other things, making efforts to encourage practices that will prevent further transmission and infection and to stimulate development of the infrastructure necessary to deliver adequate health services, and by encouraging policies that provide an incentive for public and private research on, and development of, vaccines and other medical innovations that will combat the HIV/AIDS epidemic in Africa.

Sec. 2. *Rationale.* (a) This order finds that:

(1) since the onset of the worldwide HIV/AIDS epidemic, approximately 34 million people living in sub-Saharan Africa have been infected with the disease;

(2) of those infected, approximately 11.5 million have died;

(3) the deaths represent 83 percent of the total HIV/AIDS-related deaths worldwide; and

(4) access to effective therapeutics for HIV/AIDS is determined by issues of price, health system infrastructure for delivery, and sustainable financing.

(b) In light of these findings, this order recognizes that:

(1) it is in the interest of the United States to take all reasonable steps to prevent further spread of infectious disease, particularly HIV/AIDS;

(2) there is critical need for effective incentives to develop new pharmaceuticals, vaccines, and therapies to combat the HIV/AIDS crisis, including effective global intellectual property standards designed to foster pharmaceutical and medical innovation;

(3) the overriding priority for responding to the crisis of HIV/AIDS in sub-Saharan Africa should be to improve public education and to encourage practices that will prevent further transmission and infection, and to stimulate development of the infrastructure necessary to deliver adequate health care services;

(4) the United States should work with individual countries in sub-Saharan Africa to assist them in development of effective public education campaigns aimed at the prevention of HIV/AIDS transmission and infection, and to improve their health care infrastructure to promote improved access to quality health care for their citizens in general, and particularly with respect to the HIV/AIDS epidemic;

(5) an effective United States response to the crisis in sub-Saharan Africa must focus in the short term on preventive programs designed to reduce the frequency of new infections and remove the stigma of the disease, and should place a priority on basic health services that can be used to treat opportunistic infections, sexually transmitted infections, and complications associated with HIV/AIDS so as to prolong the duration and improve the quality of life of those with the disease;

(6) an effective United States response to the crisis must also focus on the development of HIV/AIDS vaccines to prevent the spread of the disease;

(7) the innovative capacity of the United States in the commercial and public pharmaceutical research sectors is unmatched in the world, and the participation of both these sectors will be a critical element in any successful program to respond to the HIV/AIDS crisis in sub-Saharan Africa;

(8) the TRIPS Agreement recognizes the importance of promoting effective and adequate protection of intellectual property rights and the right of countries to adopt measures necessary to protect public health;

(9) individual countries should have the ability to take measures to address the HIV/AIDS epidemic, provided that such measures are consistent with their international obligations; and

(10) successful initiatives will require effective partnerships and cooperation among governments, international organizations, nongovernmental organizations, and the private sector, and greater consideration should be given to financial, legal, and other incentives that will promote improved prevention and treatment actions.

Sec. 3. *Scope.* (a) This order prohibits the United States Government from taking action pursuant to section 301(b) of the Trade Act of 1974 with respect to any law or policy in beneficiary sub-

Saharan African countries that promotes access to HIV/AIDS pharmaceuticals or medical technologies and that provides adequate and effective intellectual property protection consistent with the TRIPS Agreement. However, this order does not prohibit United States Government officials from evaluating, determining, or expressing concern about whether such a law or policy promotes access to HIV/AIDS pharmaceuticals or medical technologies or provides adequate and effective intellectual property protection consistent with the TRIPS Agreement. In addition, this order does not prohibit United States Government officials from consulting with or otherwise discussing with sub-Saharan African governments whether such law or policy meets the conditions set forth in section 1(a) of this order. Moreover, this order does not prohibit the United States Government from invoking the dispute settlement procedures of the World Trade Organization to examine whether any such law or policy is consistent with the Uruguay Round Agreements, referred to in section 101(d) of the Uruguay Round Agreements Act.

(b) This order is intended only to improve the internal management of the executive branch and is not intended to, and does not create, any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

(5) International Debt Relief

Title V of H.R. 3425 [Miscellaneous Appropriations, enacted by reference in sec. 1000(a)(5) of Public Law 106–113; H.R. 3194], 113 Stat. 1501, approved November 29, 1999; amended by Public Law 108–447 [Consolidated Appropriations Act, 2005; H.R. 4818], 118 Stat. 2809, approved December 8, 2004

A BILL Making miscellaneous appropriations for the fiscal year ending September 30, 1999, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2000, and for other purposes, namely:

* * * * * * *

TITLE V—INTERNATIONAL DEBT RELIEF

SEC. 501.[1] ACTIONS TO PROVIDE BILATERAL DEBT RELIEF.

(a) CANCELLATION OF DEBT.—Subject to the availability of amounts provided in advance in appropriations Acts, the President shall cancel all amounts owed to the United States (or any agency of the United States) by any country eligible for debt reduction under this section, as a result of loans made or credits extended prior to June 20, 1999, under any of the provisions of law specified in subsection (b).

(b) PROVISIONS OF LAW.—The provisions of law referred to in subsection (a) are the following:

(1) Sections 221 and 222 of the Foreign Assistance Act.

(2) The Arms Export Control Act (22 U.S.C. 2751 et seq.).

(3) Section 5(f) of the Commodity Credit Corporation Charter Act, section 201 of the Agricultural Trade Act of 1978 (7 U.S.C. 5621), or section 202 of such Act (7 U.S.C. 5622), or predecessor provisions under the Food for Peace Act of 1966.

(4) Title I of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1701 et seq.).

(c) OTHER DEBT REDUCTION AUTHORITIES.—The authority provided in this section is in addition to any other debt relief authority and does not in any way limit such authority.

(d) ELIGIBLE COUNTRIES.—A country that is performing satisfactorily under an economic reform program shall be eligible for cancellation of debt under this section if—

(1) the country, as of December 31, 2000, is eligible to borrow from the International Development Association;

(2) the country, as of December 31, 2000, is not eligible to borrow from the International Bank for Reconstruction and Development; and

[1] 22 U.S.C. 2395a note.

(3)(A) the country has outstanding public and publicly guaranteed debt, the net present value of which on December 31, 1996, was at least 150 percent of the average annual value of the exports of the country for the period 1994 through 1996; or

(B)(i) the country has outstanding public and publicly guaranteed debt, the net present value of which, as of the date the President determines that the country is eligible for debt relief under this section, is at least 150 percent of the annual value of the exports of the country; or

(ii) the country has outstanding public and publicly guaranteed debt, the net present value of which, as of the date the President determines that the country is eligible for debt relief under this section, is at least 250 percent of the annual fiscal revenues of the country, and has minimum ratios of exports to Gross Domestic Product of 30 percent, and of fiscal revenues to Gross Domestic Product of 15 percent.

(e) PRIORITY.—In carrying out subsection (a), the President should seek to leverage scarce foreign assistance and give priority to heavily indebted poor countries with demonstrated need and the capacity to use such relief effectively.

(f) EXCEPTIONS.—A country shall not be eligible for cancellation of debt under this section if the government of the country—

(1) has an excessive level of military expenditures;

(2) has repeatedly provided support for acts of international terrorism, as determined by the Secretary of State under section 6(j)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)) or section 620A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(a));

(3) is failing to cooperate on international narcotics control matters; or

(4) (including its military or other security forces), engages in a consistent pattern of gross violations of internationally recognized human rights.

(g) ADDITIONAL REQUIREMENT.—A country which is otherwise eligible to receive cancellation of debt under this section may receive such cancellation only if the country has committed, in connection with a social and economic reform program—

(1) to enable, facilitate, or encourage the implementation of policy changes and institutional reforms under economic reform programs, in a manner that ensures that such policy changes and institutional reforms are designed and adopted through transparent and participatory processes;

(2) to adopt an integrated development strategy of the type described in section 1624(a) of the International Financial Institutions Act, to support poverty reduction through economic growth, that includes monitorable poverty reduction goals;

(3) to take steps so that the financial benefits of debt relief are applied to programs to combat poverty (in particular through concrete measures to improve economic infrastructure, basic services in education, nutrition, and health, particularly treatment and prevention of the leading causes of mortality) and to redress environmental degradation;

(4) to take steps to strengthen and expand the private sector, encourage increased trade and investment, support the development of free markets, and promote broad-scale economic growth;

(5) to implement transparent policy making and budget procedures, good governance, and effective anticorruption measures;

(6) to broaden public participation and popular understanding of the principles and goals of poverty reduction, particularly through economic growth, and good governance; and

(7) to promote the participation of citizens and nongovernmental organizations in the economic policy choices of the government.

(h) CERTAIN PROHIBITIONS INAPPLICABLE.—Except as the President may otherwise determine for reasons of national security, a cancellation of debt under this section shall not be considered to be assistance for purposes of any provision of law limiting assistance to a country. The authority to provide for cancellation of debt under this section may be exercised notwithstanding section 620(r) of the Foreign Assistance Act of 1961, or any similar provision of law.

(i) AUTHORIZATION OF APPROPRIATIONS.—For the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) of the cancellation of any debt under this section, there are authorized to be appropriated to the President such sums as may be necessary for each of the fiscal years 2000 through 2004,[2] which shall remain available until expended.

(j) ANNUAL REPORTS TO THE CONGRESS.—Not later than December 31 of each year, the President shall prepare and transmit to the Committees on Banking and Financial Services, Appropriations, and International Relations of the House of Representatives, and the Committees on Banking, Housing, and Urban Affairs, Foreign Relations, and Appropriations of the Senate a report, which shall be made available to the public, concerning the cancellation of debt under subsection (a), and a detailed description of debt relief provided by the United States as a member of the Paris Club of Official Creditors for the prior fiscal year.

SEC. 502. ACTIONS TO IMPROVE THE PROVISION OF MULTILATERAL DEBT RELIEF.

Title XVI of the International Financial Institutions Act (22 U.S.C. 262p–262p–5) is amended by adding at the end the following: * * *[3]

SEC. 503. ACTIONS TO FUND THE PROVISION OF MULTILATERAL DEBT RELIEF.

(a) CONTRIBUTIONS FOR DEBT REDUCTIONS FOR THE POOREST COUNTRIES.—The Bretton Woods Agreements Act (22 U.S.C. 286 et seq.) is amended by adding at the end the following: * * *[4]

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[2] Sec. 591(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809) intended to strike out "2003–2004" and insert in lieu thereof "2000–2006". The amendment is not executable, as current language reads "fiscal years 2000 through 2004".

[3] Sec. 502 added new secs. 1623 and 1624 to the International Financial Institutions Act. For text, see *Legislation on Foreign Relations Through 2004*, vol. III.

[4] Sec. 503(a) added a new sec. 62 to the Bretton Woods Agreements Act. For text, see *Legislation on Foreign Relations Through 2004*, vol. III.

(b) CERTIFICATION.—Within 15 days after the United States Executive Director casts the votes necessary to carry out the instruction described in section 62 of the Bretton Woods Agreements Act, the Secretary of the Treasury shall certify to the Congress that neither the profits nor the earnings on the investment of profits from the gold sales made pursuant to the instruction or of the funds attributable to United States participation in SCA–2 will be used to augment the resources of any reserve account of the International Monetary Fund for the purpose of making loans.

SEC. 504.[5] ADDITIONAL PROVISIONS.

(a) PUBLICATION OF IMF OPERATIONS BUDGETS.—The Secretary of the Treasury shall instruct the United States Executive Director at the International Monetary Fund to use the voice, vote, and influence of the United States to urge vigorously the International Monetary Fund to publish the operational budgets of the International Monetary Fund, on a quarterly basis, not later than one year after the end of the period covered by the budget.

(b) REPORT TO THE CONGRESS SHOWING COSTS OF UNITED STATES PARTICIPATION IN THE INTERNATIONAL MONETARY FUND.—The Secretary of the Treasury shall prepare and transmit to the Committees on Banking and Financial Services, on Appropriations, and on International Relations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs, on Foreign Relations, and on Appropriations of the Senate a quarterly report, which shall be made readily available to the public, on the costs or benefits of United States participation in the International Monetary Fund and which shall detail the costs and benefits to the United States, as well as valuation gains or losses on the United States reserve position in the International Monetary Fund.

(c) CONTINUATION OF FORGOING OF REIMBURSEMENT OF IMF FOR EXPENSES OF ADMINISTERING ESAF.—The Secretary of the Treasury shall instruct the United States Executive Director at the International Monetary Fund to use the voice, vote, and influence of the United States to urge vigorously the International Monetary Fund to continue to forgo reimbursements of the expenses incurred by the International Monetary Fund in administering the Enhanced Structural Adjustment Facility, until the Heavily Indebted Poor Countries Initiative (as defined in section 1623 of the International Financial Institutions Act) is terminated.

(d) NO GOLD SALES BY INTERNATIONAL MONETARY FUND WITHOUT PRIOR AUTHORIZATION BY THE CONGRESS.—(1) The first sentence of section 5 of the Bretton Woods Agreements Act (22 U.S.C. 286c) is amended in clause (g) by striking "approve either the disposition of more than 25 million ounces of Fund gold for the benefit of the Trust Fund established by the Fund on May 6, 1976, or the establishment of any additional trust fund whereby resources of the International Monetary Fund would be used for the special benefit of a single member, or of a particular segment of the membership, of the Fund." and inserting "approve any disposition of Fund gold, unless the Secretary certifies to the Congress that such disposition is necessary for the Fund to restitute gold to its members, or for the Fund to provide liquidity that will enable the Fund

[5] 22 U.S.C. 262o–2 note.

to meet member country claims on the Fund or to meet threats to the systemic stability of the international financial system.".

(2) Not less than 30 days prior to the entrance by the United States into international negotiations for the purpose of reaching agreement on the disposition of Fund gold whereby resources of the Fund would be used for the special benefit of a single member, or of a particular segment of the membership of the Fund, the Secretary of the Treasury shall consult with the Committees on Banking and Financial Services, on Appropriations, and on International Relations of the House of Representatives and the Committees on Foreign Relations, on Appropriations, and on Banking, Housing and Urban Affairs of the Senate.

(e) ANNUAL REPORT BY GAO ON CONSISTENCY OF IMF PRACTICES WITH STATUTORY POLICIES.—The Comptroller General of the United States shall annually prepare and submit to the Congress of the United States a written report on the extent to which the practices of the International Monetary Fund are consistent with the policies of the United States, as expressly contained in Federal law applicable to the International Monetary Fund.

(6) Torture Victims Relief

(A) Torture Victims Relief Reauthorization Act of 2003

Partial text of Public Law 108–179 [H.R. 1813], 117 Stat. 2643, approved December 15, 2003

AN ACT To amend the Torture Victims Relief Act of 1998 to authorize appropriations to provide assistance for domestic and foreign centers and programs for the treatment of victims of torture, and for other purposes.

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

SECTION 1.[1] SHORT TITLE.

This Act may be cited as the "Torture Victims Relief Reauthorization Act of 2003".

* * * * * * *

SEC. 4. AUTHORIZATION OF APPROPRIATIONS FOR THE UNITED STATES CONTRIBUTION TO THE UNITED NATIONS VOLUNTARY FUND FOR VICTIMS OF TORTURE.

Of the amounts authorized to be appropriated for fiscal years 2004 and 2005 pursuant to chapter 3 of part I of the Foreign Assistance Act of 1961, there are authorized to be appropriated to the President for a voluntary contribution to the United Nations Voluntary Fund for Victims of Torture $6,000,000 for fiscal year 2004 and $7,000,000 for fiscal year 2005.

[1] 22 U.S.C. 2151 note. Secs. 2 and 3 of this Act amended the Torture Victims Relief Act of 1998 to authorize appropriations for fiscal years 2004 and 2005. For amended text, see page 532.

(B) Torture Victims Relief Reauthorization Act of 1999

Public Law 106–87 [H.R. 2367], 113 Stat. 1301, approved November 3, 1999

AN ACT To reauthorize a comprehensive program of support for victims of torture.

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

SECTION 1.[1] SHORT TITLE.

This Act may be cited as the "Torture Victims Relief Reauthorization Act of 1999".

SEC. 2. FOREIGN TREATMENT CENTERS FOR VICTIMS OF TORTURE.

(a) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized to be appropriated for fiscal years 2001, 2002, and 2003 pursuant to chapter 1 of part I of the Foreign Assistance Act of 1961, there are authorized to be appropriated to the President $10,000,000 for fiscal year 2001, $10,000,000 for fiscal year 2002, and $10,000,000 for fiscal year 2003 to carry out section 130 of the Foreign Assistance Act of 1961.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to this section shall remain available until expended.

SEC. 3. DOMESTIC TREATMENT CENTERS FOR VICTIMS OF TORTURE.

(a) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized to be appropriated for the Department of Health and Human Services for fiscal years 2001, 2002, and 2003, there are authorized to be appropriated to carry out subsection (a) of section 5 of the Torture Victims Relief Act of 1998 (22 U.S.C. 2152) $10,000,000 for fiscal year 2001, $10,000,000 for fiscal year 2002, and $10,000,000 for fiscal year 2003.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to this section shall remain available until expended.

SEC. 4. MULTILATERAL ASSISTANCE.

(a) FUNDING.—Of the amounts authorized to be appropriated for fiscal years 2001, 2002, and 2003 for "Voluntary Contributions to International Organizations" pursuant to chapter 3 of part I of the Foreign Assistance Act of 1961, there are authorized to be appropriated for a United States contribution to the United Nations Voluntary Fund for Victims of Torture (in this section referred to as the "Fund") the following amounts for the following fiscal years:

(1) FISCAL YEAR 2001.—For fiscal year 2001, $5,000,000.

(2) FISCAL YEAR 2002.—For fiscal year 2002, $5,000,000.

(3) FISCAL YEAR 2003.—For fiscal year 2003, $5,000,000.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subsection (a) shall remain available until expended.

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

(c) SENSE OF THE CONGRESS.—It is the sense of the Congress that the President, acting through the United States Permanent Representative to the United Nations, should—

(1) request the Fund—

(A) to find new ways to support and protect treatment centers and programs that are carrying out rehabilitative services for victims of torture; and

(B) to encourage the development of new such centers and programs;

(2) use the voice and vote of the United States to support the work of the Special Rapporteur on Torture and the Committee Against Torture established under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and

(3) use the voice and vote of the United States to establish a country rapporteur or similar procedural mechanism to investigate human rights violations in a country if either the Special Rapporteur or the Committee Against Torture indicates that a systematic practice of torture is prevalent in that country.

SEC. 5. REPORTING REQUIREMENT.

Not later than 90 days after the enactment of this Act, the Secretary of State shall submit a report to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives on the specialized training for foreign service officers required by section 7 of the Torture Victims Relief Act of 1998 (Public Law 105–320). The report shall include detailed information regarding

(1) efforts by the Department of State to implement the specialized training requirement;

(2) the curriculum that is being used in the specialized training;

(3) the number of foreign service officers who have received the specialized training as of the date of the report; and

(4) the nongovernmental organizations that have been involved in the development of the specialized training curriculum or in providing the specialized training, and the nature and extent of that involvement.

SEC. 6. TECHNICAL AMENDMENTS RELATING TO THE SECOND SECTION 129 OF THE FOREIGN ASSISTANCE ACT OF 1961.

(a) AMENDMENT TO FOREIGN ASSISTANCE ACT OF 1961.—The second section 129 of the Foreign Assistance Act of 1961, as added by section 4(a) of the Torture Victims Relief Act of 1998 (Public Law 105-320), is redesignated as section 130.

(b) AMENDMENT TO TORTURE VICTIMS RELIEF ACT OF 1998.—Section 4(b)(1) of the Torture Victims Relief Act of 1998 is amended by striking "section 129 of the Foreign Assistance Act of 1961, as added by subsection (a)" and inserting "section 130 of the Foreign Assistance Act of 1961 (as redesignated by section 6(a) of the Torture Victims Relief Reauthorization Act of 1999)".

(C) Torture Victims Relief Act of 1998

Public Law 105–320 [H.R. 4309], 112 Stat. 3016, approved October 30, 1998; amended by Public Law 106–87 [Torture Victims Relief Reauthorization Act of 1999; H.R. 2367], 113 Stat. 1301, approved November 3, 1999; and by Public Law 108–179 [Torture Victims Relief Reauthorization Act of 2003; H.R. 1813], 117 Stat. 2643, approved December 15, 2003

AN ACT To provide a comprehensive program of support for victims of torture.

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

SECTION 1.[1] SHORT TITLE.

This Act may be cited as the "Torture Victims Relief Act of 1998".

SEC. 2.[1] FINDINGS.

Congress makes the following findings:

(1) The American people abhor torture by any government or person. The existence of torture creates a climate of fear and international insecurity that affects all people.

(2) Torture is the deliberate mental and physical damage caused by governments to individuals to destroy individual personality and terrorize society. The effects of torture are long term. Those effects can last a lifetime for the survivors and affect future generations.

(3) By eliminating the leadership of their opposition and frightening the general public, repressive governments often use torture as a weapon against democracy.

(4) Torture survivors remain under physical and psychological threats, especially in communities where the perpetrators are not brought to justice. In many nations, even those who treat torture survivors are threatened with reprisals, including torture, for carrying out their ethical duty to provide care. Both the survivors of torture and their treatment providers should be accorded protection from further repression.

(5) A significant number of refugees and asylees entering the United States have been victims of torture. Those claiming asylum deserve prompt consideration of their applications for political asylum to minimize their insecurity and sense of danger. Many torture survivors now live in the United States. They should be provided with the rehabilitation services which would enable them to become productive members of our communities.

(6) The development of a treatment movement for torture survivors has created new opportunities for action by the United States and other nations to oppose state-sponsored and other acts of torture.

[1] 22 U.S.C. 2152 note.

(7) There is a need for a comprehensive strategy to protect and support torture victims and their treatment providers, together with overall efforts to eliminate torture.

(8) By acting to heal the survivors of torture and protect their families, the United States can help to heal the effects of torture and prevent its use around the world.

SEC. 3.[1] DEFINITION.

As used in this Act, the term "torture" has the meaning given the term in section 2340(1) of title 18, United States Code, and includes the use of rape and other forms of sexual violence by a person acting under the color of law upon another person under his custody or physical control.

SEC. 4.[1] FOREIGN TREATMENT CENTERS.

(a) AMENDMENTS TO THE FOREIGN ASSISTANCE ACT OF 1961.—Part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) is amended by adding at the end of chapter 1 the following new section: * * *[2]

(b) FUNDING.—

(1)[3] AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized to be appropriated for fiscal years 2004 and 2005 pursuant to chapter 1 of part I of the Foreign Assistance Act of 1961, there are authorized to be appropriated to the President to carry out section 130 of such Act (relating to assistance for centers in foreign countries and programs for the treatment of victims of torture) $11,000,000 for fiscal year 2004 and $12,000,000 for fiscal year 2005.

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to this subsection shall remain available until expended.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect October 1, 1998.

SEC. 5.[1] DOMESTIC TREATMENT CENTERS.

(a) ASSISTANCE FOR TREATMENT OF TORTURE VICTIMS.—The Secretary of Health and Human Services may provide grants to programs in the United States to cover the cost of the following services:

(1) Services for the rehabilitation of victims of torture, including treatment of the physical and psychological effects of torture.

(2) Social and legal services for victims of torture.

(3) Research and training for health care providers outside of treatment centers, or programs for the purpose of enabling such providers to provide the services described in paragraph (1).

(b) FUNDING.—

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[2] Sec. 4(a) added a new sec. 129 (22 U.S.C. 2152) to the Foreign Assistance Act of 1961. Public Law 106–87 (113 Stat. 1302) subsequently redesignated the section as sec. 130.

[3] Sec. 3(a) of Public Law 108–179 (117 Stat. 2643) amended and restated para. (1), which had been previously amended by sec. 6(b) of Public Law 106–87 (113 Stat. 1302). It previously authorized to be appropriated to the President $5,000,000 for fiscal year 1999 and $7,500,000 for fiscal year 2000 to carry out sec. 130 of the Foreign Assistance Act of 1961. The amendment entered into effect October 1, 2003, pursuant to subsec. (b) of that section.

(1)[4] AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized to be appropriated for the Department of Health and Human Services for fiscal years 2004 and 2005, there are authorized to be appropriated to carry out subsection (a) (relating to assistance for domestic centers and programs for the treatment of victims of torture) $20,000,000 for fiscal year 2004 and $25,000,000 for fiscal year 2005.

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to this subsection shall remain available until expended.

SEC. 6.[1] MULTILATERAL ASSISTANCE.

(a) FUNDING.—Of the amounts authorized to be appropriated for fiscal years 1999 and 2000 pursuant to chapter 3 of part I of the Foreign Assistance Act of 1961, there are authorized to be appropriated to the United Nations Voluntary Fund for Victims of Torture (in this section referred to as the "Fund") the following amounts for the following fiscal years:

(1) FISCAL YEAR 1999.—For fiscal year 1999, $3,000,000.

(2) FISCAL YEAR 2000.—For fiscal year 2000, $3,000,000.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subsection (a) shall remain available until expended.

(c) SENSE OF THE CONGRESS.—It is the sense of the Congress that the President, acting through the United States Permanent Representative to the United Nations, should—

(1) request the Fund—

(A) to find new ways to support and protect treatment centers and programs that are carrying out rehabilitative services for victims of torture; and

(B) to encourage the development of new such centers and programs;

(2) use the voice and vote of the United States to support the work of the Special Rapporteur on Torture and the Committee Against Torture established under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and

(3) use the voice and vote of the United States to establish a country rapporteur or similar procedural mechanism to investigate human rights violations in a country if either the Special Rapporteur or the Committee Against Torture indicates that a systematic practice of torture is prevalent in that country.

SEC. 7.[1] SPECIALIZED TRAINING FOR FOREIGN SERVICE OFFICERS.

(a) IN GENERAL.—The Secretary of State shall provide training for foreign service officers with respect to—

(1) the identification of torture;

(2) the identification of the surrounding circumstances in which torture is most often practiced;

(3) the long-term effects of torture upon a victim;

[4] Sec. 2(a) of Public Law 108–179 (117 Stat. 2643) amended and restated para. (1). It previously authorized appropriations of $5,000,000 for fiscal year 1999, and $7,500,000 for fiscal year 2000. The amendment entered into effect October 1, 2003, pursuant to subsec. (b) of that section.

(4) the identification of the physical, cognitive, and emotional effects of torture, and the manner in which these effects can affect the interview or hearing process; and

(5) the manner of interviewing victims of torture so as not to retraumatize them, eliciting the necessary information to document the torture experience, and understanding the difficulties victims often have in recounting their torture experience.

(b) GENDER-RELATED CONSIDERATIONS.—In conducting training under subsection (a)(4) or (5), gender-specific training shall be provided on the subject of interacting with women and men who are victims of torture by rape or any other form of sexual violence.

(7) Miscellaneous Authorization—Fiscal Years 1996 and 1997

Partial text of Public Law 104–164 [H.R. 3121], 110 stat. 1421, approved July 21, 1996; amended by Public Law 105–277 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (sec. 101(d) of division A); and European Security Act (title XXVII of division G; H.R. 4328], 112 Stat. 2681, approved October 21, 1998; and by Public Law 106–113 [Security Assistance Act of 1999, title XII of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001; H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113], 113 Stat. 1501, approved November 29, 1999

NOTE.—Except for the provisions noted below, this Act consists of amendments to the Foreign Assistance Act of 1961 and the Arms Export Control Act. Title II, relating to the transfer of naval vessels to foreign countries, has been executed and is listed as such on page 1334.

AN ACT To amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to make improvements to certain defense and security assistance provisions under those Acts, to authorize the transfer of naval vessels to certain foreign countries, and for other purposes.

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

SECTION 1. TABLE OF CONTENTS.

The table of contents of this Act is as follows: * * *

TITLE I—DEFENSE AND SECURITY ASSISTANCE

CHAPTER 1—MILITARY AND RELATED ASSISTANCE

* * * * * * *

SEC. 105. EXCESS DEFENSE ARTICLES FOR CERTAIN EUROPEAN COUNTRIES.

Notwithstanding section 516(e) of the Foreign Assistance Act of 1961, as added by this Act, during each of the fiscal years 2000 and 2001,[1] funds available to the Department of Defense may be expended for crating, packing, handling, and transportation of excess defense articles transferred under the authority of section 516 of

[1] Sec. 1211(a) of the Security Assistance Act of 1999 (title XII of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536)) struck out "1999 and 2000" and inserted in lieu thereof "2000 and 2001".

Previously, sec. 519 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (division A, sec. 101(d) of Public Law 105–277; 112 Stat. 2681) struck out "1996 and 1997" and inserted in lieu thereof "1999 and 2000". Sec. 2703(d) of the European Security Act of 1998 (division G, title XXVII of Public Law 105–277), however, also struck out "1996 and 1997" to insert in lieu thereof "1997, 1998, and 1999".

such Act to countries that are eligible to participate in the Partnership for Peace and that are eligible for assistance under the Support for East European Democracy (SEED) Act of 1989.

CHAPTER 2—INTERNATIONAL MILITARY EDUCATION AND TRAINING

SEC. 111. ASSISTANCE FOR INDONESIA.

Funds made available for fiscal years 1996 and 1997 to carry out chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.) may be obligated for Indonesia only for expanded military and education training that meets the requirements of clauses (i) through (iv) of the second sentence of section 541 of such Act (22 U.S.C. 2347).

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CHAPTER 3—ANTITERRORISM ASSISTANCE

* * * * * * *

SEC. 122. RESEARCH AND DEVELOPMENT EXPENSES.

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

CHAPTER 4—INTERNATIONAL NARCOTICS CONTROL ASSISTANCE

* * * * * * *

SEC. 132.[2] NOTIFICATION REQUIREMENT.

(a) IN GENERAL.—The authority of section 1003(d) of the National Narcotics Control Leadership Act of 1988 (21 U.S.C. 1502(d)) may be exercised with respect to funds authorized to be appropriated pursuant to the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) and with respect to the personnel of the Department of State only to the extent that the appropriate congressional committees have been notified 15 days in advance in accordance with the reprogramming procedures applicable under section 634A of that Act (22 U.S.C. 2394–1).

(b) DEFINITION.—For purposes of this section, the term "appropriate congressional committees" means the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

[2] 21 U.S.C. 1502 note.

SEC. 133.[3] WAIVER OF RESTRICTIONS FOR NARCOTICS-RELATED ECONOMIC ASSISTANCE.

For each of the fiscal years 1996 and 1997, narcotics-related assistance under part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) may be provided notwithstanding any other provision of law that restricts assistance to foreign countries (other than section 490(e) or section 502B of that Act (22 U.S.C. 2291j(e) and 2304)) if, at least 15 days before obligating funds for such assistance, the President notifies the appropriate congressional committees (as defined in section 481(e) of that Act (22 U.S.C. 2291(e))) in accordance with the procedures applicable to reprogramming notifications under section 634A of that Act (22 U.S.C. 2394–1).

CHAPTER 5—OTHER PROVISIONS

* * * * * * *

SEC. 154.[4] ELIGIBILITY OF PANAMA UNDER THE ARMS EXPORT CONTROL ACT.

The Government of the Republic of Panama shall be eligible to purchase defense articles and defense services under the Arms Export Control Act (22 U.S.C. 2751 et seq.), except as otherwise specifically provided by law.

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TITLE II—TRANSFER OF NAVAL VESSELS TO CERTAIN FOREIGN COUNTRIES[5]

* * * * * * *

[3] 22 U.S.C. 2151 note.
[4] 22 U.S.C. 2751 note.
[5] For list of executed Public Laws relating to the transfer of naval vessels to foreign countries, see page 1334.

(8) International Cooperation to Protect Biological Diversity

Public Law 100–530 [H.J. Res. 648], 102 Stat. 2651, approved October 25, 1988

JOINT RESOLUTION To encourage increased international cooperation to protect biological diversity.

Whereas habitat destruction is a main cause of the accelerating extinction of animal and plant species;

Whereas increased international cooperation is essential to protect species threatened with extinction and to halt the loss of unique and irreplaceable ecosystems; and

Whereas the United States has strongly supported efforts to convene an international convention for preservation of the Earth's biological diversity: Now therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1.[1] STATEMENT OF POLICIES.

The Congress—

(1) supports the United States efforts, consistent with section 119(g) of the Foreign Assistance Act of 1961, to initiate discussions to develop an international agreement to preserve biological diversity; and

(2) calls upon the President to continue exerting United States leadership in order to achieve the earliest possible negotiation of an international convention to conserve the Earth's biological diversity, including the protection of a representative system of ecosystems adequate to conserve biological diversity.

SEC. 2.[2] REPORT.

Not later than one year after the date of the enactment of this joint resolution, the President shall submit a report to the Congress on progress toward the goal of negotiating the international convention described in paragraph (2) of section 1.

[1] 22 U.S.C. 2151q note.
[2] 22 U.S.C. 2151q note.

(9) Control of Swine Influenza

Partial text of Public Law 94–302 [H.R. 9721], 90 Stat. 591, approved May 31, 1976

AN ACT To provide for increased participation by the United States in the Inter-American Development Bank, to provide for the entry of nonregional members and the Bahamas and Guyana in the Inter-American Development Bank, to provide for the participation of the United States in the African Development Fund, and for other purposes.

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

* * * * * * *

TITLE III—SWINE INFLUENZA

Sec. 301.[1] (a) The Congress finds and declares that—

(1) the problems posed by swine influenza transcend national and political boundaries;

(2) no one country, or even one portion of the world, can singularly undertake the search for a worldwide solution to the problems posed by swine influenza;

(3) the global nature of swine influenza demands international cooperation and coordination in the investigation and planning for effective control of swine influenza;

(4) the Public Health Service of the United States has invited the World Health Organization of the United Nations and its International Influenza Reference Centers to participate in the investigation and planning for the control of swine influenza;

(5) special collaboration has already been established among the United States, the United Kingdom, and Canada for mutual participation in the investigation and planning for the control of swine influenza;

(6) the United States Department of State and the Public Health Service of the United States have joint programs to provide information to foreign countries on the nature and extent of swine influenza and the methods necessary to control it; and

(7) the technology of the United States for the surveillance of virus disease and vaccine production should be made available to foreign countries.

(b) It is the sense of the Congress that the President should furnish assistance to foreign countries and international organizations for the investigation and planning for the control of swine influenza.

[1] 22 U.S.C. 2101 note.

k. Use of Foreign Currencies [1]

(1) 31 U.S.C. 1306 [2]

Title 31, U.S.C. * * *

§ 1306. Use of foreign credits

(a) IN GENERAL.—Foreign credits (including currencies) owed to or owned by the United States may be used by any agency for any purpose for which appropriations are made for the agency for the current fiscal year (including the carrying out of Acts requiring or authorizing the use of such credits), but only when reimbursement therefor is made to the Treasury from applicable appropriations of the agency.

(b) EXCEPTION TO REIMBURSEMENT REQUIREMENT.—Credits described in subsection (a) that are received as exchanged allowances, or as the proceeds of the sale of personal property, may be used in whole or partial payment for the acquisition of similar items, to the extent and in the manner authorized by law, without reimbursement to the Treasury.

[1] For text on Use of Local Currencies, see sec. 40 of the FA Act of 1973 (Public Law 93–189; 87 Stat. 714), and sec. 502 of the Mutual Security Act of 1954, as amended (Public Law 83–665; 68 Stat. 832), in *Legislation on Foreign Relations Through 2004*, vol. I–A, and page 485 in this volume, respectively.

[2] Sec. 1306, title 31, was originally enacted as sec. 1415 of the Supplemental Appropriation Act, 1953, and codified at 31 U.S.C. 724. Public Law 97–258 (96 Stat. 877) revised and recodified title 31 United States Code. Sec. 612(a) of the Treasury, Postal Service, and General Government Appropriations Act, 1997 (sec. 101(f) of title I of Public Law 104–208; 110 Stat. 3009), amended and restated sec. 1306. It formerly read as follows:

"Foreign credits owed to or owned by the Treasury are not available for expenditure by agencies except as provided annually in general appropriation laws.".

(2) General Government Matters Appropriation Act, 1962

Partial text of Public Law 87–125 [H.R. 7577] 75 Stat. 268, 283, approved August 3, 1961

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TITLE V—GENERAL PROVISIONS

* * * * * * *

Sec. 508. Pursuant to section 1415 of the Act of July 15, 1952 (66 Stat. 662),[1] foreign credits (including currencies) owed to or owned by the United States may be used by Federal agencies for any purpose for which appropriations are made for the current fiscal year (including the carrying out of Acts requiring or authorizing the use of such credits),[2] only when reimbursement therefor is made to the Treasury from applicable appropriations of the agency concerned: *Provided,* That such credits received as exchange allowances or proceeds of sales of personal property may be used in whole or in part payment for acquisition of similar items, to the extent and in the manner authorized by law, without reimbursement to the Treasury: *Provided further,* That nothing in section 1415 of the Act of July 15, 1952, or in this section shall be construed to prevent the making of new or the carrying out of existing contracts, agreements, or executive agreements for periods in excess of one year, in any case where such contracts, agreements, or executive agreements for periods in excess of one year were permitted prior to the enactment of this Act under section 32(b)(2) of the Surplus Property Act of 1944, as amended (50 U.S.C. App. 1641(b)(2)), and the performance of all such contracts, agreements, or executive agreements shall be subject to the availability of appropriations for the purchase of credits as provided by law.

* * * * * * *

[1] Sec. 1306, title 31, was originally enacted as sec. 1415 of the Supplemental Appropriation Act, 1953, and codified at 31 U.S.C. 724. Public Law 97–258 (96 Stat. 877) revised and recodified title 31, including changes to the text and U.S. Code citation to this provision.

[2] The words "and for liquidation of obligations legally incurred against such credits prior to July 1, 1953" appeared at this point in previous General Government Matters Appropriation Acts, 1956–1959, and the Supplemental Appropriations Act, 1955.

(3) Use of Reserved Coins and Currencies of Foreign Countries

Title 31, U.S.C. * * *

§ 5303.[1] Reserved coins and currencies of foreign countries

An agency may use coins and currencies of a foreign country the United States Government holds that are or may be reserved for a specific program or activity of an agency. The agency shall reimburse the Treasury from appropriations and shall replace the coins and currencies when they are needed for the program or activity for which they were reserved originally.

[1] Sec. 5303, title 31, was originally enacted as Public Law 89–677 (80 Stat. 955) and codified at 31 U.S.C. 938. Public Law 97–258 (96 Stat. 877) revised and recodified title 31, including changes to the text and U.S. Code citation to this provision.

l. Merchant Marine Act of 1936, as amended

Act of June 29, 1936, Chapter 858 [H.R. 8355] 49 Stat. 1985, as amended

AN ACT To further the development and maintenance of an adequate and well-balanced American merchant marine, to promote the commerce of the United States, to aid in the national defense, to repeal certain former legislation, and for other purposes.

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

* * * * * * *

Sec. 901.[1] * * *

(b)[2] (1)[3] Whenever the United States shall procure, contract for, or otherwise obtain for its own account, or shall furnish to or for the account of any foreign nation without provision for reimbursement, any equipment, materials, or commodities, within or without the United States, or shall advance funds or credits or guarantee the convertibility of foreign currencies in connection with the furnishing of such equipment, materials, or commodities, the appropriate agency or agencies shall take such steps as may be necessary and practicable to assure that at least 50 per centum of the gross tonnage of such equipment, materials, or commodities (computed separately for dry bulk carriers, dry cargo liners, and tankers), which may be transported on ocean vessels shall be transported on privately owned United States-flag commercial vessels, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels, in such manner as will insure a fair and reasonable participation of United States-flag commercial vessels in such cargoes by geographic areas: *Provided,* That the provisions of this subsection may be waived whenever the Congress by concurrent resolution or otherwise, or the President of the United States, or the Secretary of Defense declares that an emergency exists justifying a temporary waiver of the provisions of section 901(b)(1)[4] and so notifies the appropriate agency or agencies: *And provided further,* That the provisions of this subsection shall not apply to cargoes carried in vessels of the Panama Canal Company. Nothing herein shall repeal or otherwise modify the provisions of Public Resolution Numbered 17, Seventy-third Congress (48 Stat. 500)[5] as amended."[6] For purposes of this section, the term "privately owned United States-flag commercial vessels" shall not be deemed to include any vessel which, subsequent to the date

[1] 46 U.S.C. app. 1241.
[2] Public Law 83–664 (68 Stat. 832) added subsec. (b).
[3] Sec. 27(a) of Public Law 91–469 (Merchant Marine Act of 1970) redesignated subsec. (b) as subsec. (b)(1).
[4] Sec. 27(b) of Public Law 91–469 inserted "section 901(b)(1)" in lieu of "section 901(b)".
[5] 15 U.S.C. 616a.
[6] See also sec. 603 of the FA Act of 1961, in *Legislation on Foreign Relations Through 2004*, vol. I–A.

of enactment of this amendment, shall have been either (a) built outside the United States, (b) rebuilt outside the United States, or (c) documented under any foreign registry, until such vessel shall have been documented under the laws of the United States for a period of three years: *Provided, however,* That the provisions of this amendment shall not apply where, (1) prior to the enactment of this amendment, the owner of a vessel, or contractor for the purchase of a vessel, originally constructed in the United States and rebuilt abroad or contracted to be rebuilt abroad, has notified the Maritime Administration in writing of its intent to document such vessel under United States registry, and such vessel is so documented on its first arrival at a United States port not later than one year subsequent to the date of the enactment of this amendment, or (2) where prior to the enactment of this amendment, the owner of a vessel under United States registry has made a contract for the rebuilding abroad of such vessel and has notified the Maritime Administration of such contract, and such rebuilding is completed and such vessel is thereafter documented under United States registry on its first arrival at a United States port not later than one year subsequent to the date of the enactment of this amendment.[7]

(2)[8] Every department or agency having responsibility under this subsection shall administer its programs with respect to this subsection under regulations issued by the Secretary of Transportation.[9] The Secretary of Transportation[9] shall review such administration and shall annually report to the Congress with respect thereto.

Sec. 901a.[10, 11] The requirements of section 901(b)(1) of this Act and the Joint Resolution of March 26, 1934 (46 U.S.C. App. 1241–1), shall not apply to any export activities of the Secretary of Agriculture or the Commodity Credit Corporation—

(1) under which agricultural commodities or the products thereof acquired by the Commodity Credit Corporation are made available to United States exporters, users, processors, or foreign purchasers for the purpose of developing, maintaining, or expanding export markets for United States agricultural commodities or the products thereof at prevailing world market prices;

(2) under which payments are made available to United States exporters, users, or processors or, except as provided in section 901b, cash grants are made available to foreign purchasers, for the purpose described in paragraph (1);

(3) under which commercial credit guarantees are blended with direct credits from the Commodity Credit Corporation to reduce the effective rate of interest on export sales of United States agricultural commodities or the products thereof;

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[7] The last part of this subsection, beginning with the words "For purposes of this section," was added by Public Law 87–266.

[8] Sec. 27(c) of Public Law 91–469 added subsec. (2).

[9] The references to the Secretary of Transportation were substituted in lieu of references to the Secretary of Commerce by sec. 12(126) of Public Law 97–31 (95 Stat. 165).

[10] 46 U.S.C. app. 1241e.

[11] Sec. 1142 of the Food Security Act of 1985 (Public Law 99–198; 99 Stat. 1490), added secs. 901a through 901k.

(4) under which credit or credit guarantees for not to exceed 3 years are extended by the Commodity Credit Corporation to finance or guarantee export sales of United States agricultural commodities or the products thereof; or

(5) under which agricultural commodities or the products thereof owned or controlled by or under loan from the Commodity Credit Corporation are exchanged or bartered for materials, goods, equipment, or services, but only if such materials, goods, equipment, or services are of a value at least equivalent to the value of the agricultural commodities or products exchanged or bartered therefor (determined on the basis of prevailing world market prices at the time of the exchange or barter), but nothing in this subsection shall be construed to exempt from the cargo preference provisions referred to in section 901b any requirement otherwise applicable to the materials, goods, equipment, or services imported under any such transaction.

SHIPMENT REQUIREMENTS FOR CERTAIN EXPORTS SPONSORED BY THE DEPARTMENT OF AGRICULTURE

Sec. 901b.[11, 12] (a)(1) In addition to the United States requirement for flag carriage of a percentage of gross tonnage imposed by section 901(b)(1) of this Act, 25 percent of the gross tonnage of agricultural commodities or the products thereby specified in subsection (b) shall be transported on United States-flag commercial vessels.

(2) In order to achieve an orderly and efficient implementation of the requirement of paragraph (1)—

(A) an additional quantity equal to 10 percent of the gross tonnage referred to in paragraph (1) shall be transported in United States-flag vessels in calendar year 1986;

(B) an additional quantity equal to 20 percent of the gross tonnage shall be transported in such vessels in calendar year 1987; and

(C) an additional quantity equal to 25 percent of the gross tonnage shall be transported in such vessels in calendar year 1988 and in each calendar year thereafter.

(b) This section shall apply to an export activity of the Commodity Credit Corporation or the Secretary of Agriculture—

(1) carried out under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.);

(2) carried out under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431);

(3) carried out under the Bill Emerson Humanitarian Trust Act (7 U.S.C. 1736f–1 et seq.);[13]

(4) under which agricultural commodities or the products thereof are—

[12] 46 U.S.C. app. 1241f.

[13] Sec. 212(b)(5) of Public Law 105–385 (112 Stat. 3467) struck out "Food Security Wheat Reserve Act of 1980 (7 U.S.C. 1736f–1)" and inserted in lieu thereof "Bill Emerson Humanitarian Trust Act (7 U.S.C. 1736f–1 et seq.)".

(A) donated through foreign governments or agencies, private or public, including intergovernmental organizations; or

(B) sold for foreign currencies or for dollars on credit terms of more than ten years;

(5) under which agricultural commodities or the products thereof are made available for emergency food relief at less than prevailing world market prices;

(6) under which a cash grant is made directly or through an intermediary to a foreign purchaser for the purpose of enabling the purchaser to obtain United States agricultural commodities or the products thereof in an amount greater than the difference between the prevailing world market price and the United States market price, free along side vessel at United States port; or

(7) under which the agricultural commodities owned or controlled by or under loan for the Commodity Credit Corporation are exchanged or bartered for materials, goods, equipment, or services produced in foreign countries, other than export activities described in section 901a (5).

(c)(1) The requirement for United States-flag transportation imposed by subsection (a) shall be subject to the same terms and conditions as provided in section 901(b) of this Act.

(2)[14] In order to provide for effective and equitable administration of the cargo preference laws the calendar year for the purpose of compliance with minimum percentage requirements shall be for 12 month periods commencing April 1, 1986, the 18-month period beginning April 1, 2002, and the 12-month period beginning October 1, 2003, and each year thereafter.[15]

(3)[14] (A) Subject to subparagraph (B), in administering sections 901(b) and 901b (46 U.S.C. App. 1241(b) and 1241f), and, subject to subparagraph (B) of this paragraph, consistent with those sections,[16] the Commodity Credit Corporation shall take such steps as may be necessary and practicable without detriment to any port range to allocate, on the principle of lowest landed cost without regard to the country of documentation of the vessel, 25 percent[17] of the bagged, processed, or fortified commodities furnished pursuant to title II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1751 et seq.).

(B)[18] In carrying out this paragraph, there shall first be calculated the allocation of 100 percent of the quantity to be procured

[14] Sec. 1525 of the Agricultural Development and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3667) struck out subpara. "(A)" in para. (2); struck out subpara. (B), and inserted new paras. (3), (4), and (5). Subparas. (A) and (B) were further amended by Public Law 104–239 (see notes below), para. (4) was struck out and para. (5) was redesignated as para. (4).

[15] Sec. 3514 of the Maritime Security Act of 2003 (title XXXV of the National Defense Authorization Act, Fiscal Year 2004; Public Law 108–136; 117 Stat. 1792) struck out "1986." and inserted in lieu thereof "1986, the 18-month period beginning April 1, 2002, and the 12-month period beginning October 1, 2003, and each year thereafter."

[16] Sec. 17(a)(1)(A) of the Maritime Security Act of 1996 (Public Law 104–239; 110 Stat. 3138) struck out "and consistent with those sections," and inserted in lieu thereof "and, subject to subparagraph (B) of this paragraph, consistent with those sections,".

[17] Sec. 17(a)(1)(B) of the Maritime Security Act of 1996 (Public Law 104–239; 110 Stat. 3139) struck out "50 percent" and inserted in lieu thereof "25 percent".

[18] Sec. 17(a)(2) of the Maritime Security Act of 1996 (Public Law 104–239; 110 Stat. 3139) struck out subpara. (B) and added new subparas. (B) and (C). Former subpara. (B) read as follows:

Continued

on an overall lowest landed cost basis without regard to the country of documentation of the vessel and there shall be allocated to the Great Lakes port range any cargoes for which it has the lowest landed cost under that calculation. The requirements for United States-flag transportation under section 901(b) and this section shall not apply to commodities allocated under subparagraph (A) to the Great Lakes port range, and commodities allocated under subparagraph (A) to that port range may not be reallocated or diverted to another port range to meet those requirements to the extent that the total tonnage of commodities to which subparagraph (A) applies that is furnished and transported from the Great Lakes port range is less than 25 percent of the total annual tonnage of such commodities furnished.

(C)[18] In awarding any contract for the transportation by vessel of commodities from the Great Lakes port range pursuant to an export activity referred to in subsection (b), each agency or instrumentality—

(i) shall consider expressions of freight interest for any vessel from a vessel operator who meets reasonable requirements for financial and operational integrity; and

(ii) may not deny award of the contract to a person based on the type of vessel on which the transportation would be provided (including on the basis that the transportation would not be provided on a liner vessel (as that term is used in the Shipping Act of 1984, as in effect on November 14, 1995)), if the person otherwise satisfies reasonable requirements for financial and operational integrity.

(4)[14, 19] Any determination of nonavailability of United States-flag vessels resulting from the application of this subsection shall not reduce the gross tonnage of commodities required by sections 901(b) and 901b to be transported on United States-flag vessels.

(d) As used in subsection (b), the term "export activity" does not include inspection or weighing activities, other activities carried out for health or safety purposes, or technical assistance provided in the handling of commercial transactions.

(e)(1) The prevailing world market price as to agricultural commodities or the products thereof shall be determined under section 901a through 901d in accordance with procedures established by the Secretary of Agriculture. The Secretary shall prescribe such procedures by regulation, with notice and opportunity for public comment, pursuant to section 553 of title 5, United States Code.

(2) In the event that a determination of the prevailing world market price of any other type of materials, goods, equipment, or

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"(B) In carrying out this paragraph, the Commodity Credit Corporation shall not allocate to the Great Lakes port range in any year a percentage share of commodities referred to in subparagraph (A) that is greater than the share experienced by that port range in 1984, as determined by the Secretary of Agriculture.".

[19] Sec. 17(b) of the Maritime Security Act of 1996 (Public Law 104–239; 110 Stat. 3139) struck out para. (4) and redesignated para. (5) as para. (4). Former para. (4) had read as follows:

"(4)[14] Amounts of cargo allocated to ports in the Great Lakes port range pursuant to paragraph (3) shall not be exported from a different port range except as necessary to meet United States-flag transportation requirements of sections 901(b) and 901b, in which case within the same year the Commodity Credit Corporation shall take such steps as are necessary and practicable without detriment to any port range to ensure the export from the Great Lakes port range of an amount of tonnage of commodities referred to in paragraph (3)(A) that is not required to be transported on United States-flag vessels, that is equal to the amount of tonnage diverted for export from other port ranges.".

service is required in order to determine whether a barter or exchange transaction is subject to subsection (b)(6) or (b)(7), such determination shall be made by the Secretary of Agriculture in consultation with the heads of other appropriate Federal agencies.

MINIMUM TONNAGE

Sec. 901c.[11, 20] (a)(1) For fiscal year 1986 and each fiscal year thereafter, the minimum quantity of agricultural commodities to be exported under programs subject to section 901b shall be the average of the tonnage exported under such programs during the base period defined in subsection (b), discarding the high and low years.

(2) The President may waive the minimum quantity for any fiscal year required under paragraph (1) if he determines and reports to the Congress, together with his reasons, that such quantity cannot be effectively used for the purposes of such programs or, based on a certification by the Secretary of Agriculture, that the commodities are not available for reasons which include the unavailability of funds.

(b) The base period utilized for computing the minimum tonnage quantity referred to in subsection (a) for any fiscal year shall be the five fiscal years beginning with the sixth fiscal year preceding such fiscal year and ending with the second fiscal year preceding such fiscal year.

FINANCING OF SHIPMENT OF AGRICULTURAL COMMODITIES IN UNITED STATES-FLAG VESSELS

Sec. 901d.[11, 21] (a) The Secretary of Transportation shall finance any increased ocean freight charges incurred in any fiscal year which result from the application of section 901b.

(b) If in any fiscal year the total cost of ocean freight and ocean freight differential for which obligations are incurred by the Department of Agriculture and the Commodity Credit Corporation on exports of agricultural commodities and products thereof under the agricultural export programs specified in section 901b(b) exceeds 20 percent of the value of such commodities and products and the cost of such ocean freight and ocean freight differential on which obligations are incurred by such Department and Corporation during such year, the Secretary of Transportation shall reimburse the Department of Agriculture and the Commodity Credit Corporation for the amount of such excess. For the purpose of this subsection, commodities shipped from the inventory of the Commodity Credit Corporation shall be valued as provided in section 403(b) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1733(b)).

(c) For the purpose of meeting those expenses required to be assumed under subsections (a) and (b), the Secretary of Transportation shall issue to the Secretary of the Treasury such obligations in such forms and denominations, bearing such maturities and subject to such terms and conditions, as may be prescribed by the Secretary of Transportation with the approval of the Secretary of the

[20] 46 U.S.C. app. 1241g.
[21] 46 U.S.C. app. 1241h.

Treasury. Such obligations shall be at a rate of interest as determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding marketable obligations of the United States with remaining periods of maturity comparable to the average maturities of such obligations during the month preceding the issuance of such obligations of the Secretary of Transportation. The Secretary of the Treasury shall purchase any obligations of the Secretary of Transportation issued under this subsection and, for the purpose of purchasing such obligations, the Secretary of the Treasury may use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, after the date of the enactment of this Act and the purposes for which securities may be issued under such chapter are extended to include any purchases of the obligations of the Secretary of Transportation under this subsection. All redemptions and purchases by the Secretary of the Treasury of the obligations of the Secretary of Transportation shall be treated as public-debt transactions of the United States.

(d) There is authorized to be appropriated annually for each fiscal year, commencing with the fiscal year beginning October 1, 1986, an amount sufficient to reimburse the Secretary of Transportation for the costs, including administrative expenses and the principal and interest due on the obligations to the Secretary of the Treasury incurred under this section. Reimbursement of any such costs shall be made with appropriated funds, as provided in this section, rather than through cancellation of notes.

(e) Notwithstanding the provisions of this section, in the event that the Secretary of Transportation is unable to obtain the funds necessary to finance the increased ocean freight charges resulting from the requirements of subsections (a) and (b) and section 901b(a), the Secretary of Transportation shall so notify the Congress within 10 working days of the discovery of such insufficiency.

AUTHORIZATION OF APPROPRIATIONS

Sec. 901e.[11, 22] There are authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 901a through 901k.

TERMINATION OF SECTIONS 901a THROUGH 901k

Sec. 901f.[11, 23] The operation of section 901a through 901k shall terminate 90 days after the date on which a notification is made pursuant to section 901d(e), except with respect to shipments of agricultural commodities and products subject to contracts entered into before the expiration of such 90-day period, unless within such 90-day period the Secretary of Transportation proclaims that funds are available to finance increased freight charges resulting from the requirements of sections 901b (a) and 901d (a) and (b). In the event of termination under this section, nothing in sections 901a through 901d shall be construed as exempting export activities

[22] 46 U.S.C. app. 1241i.
[23] 46 U.S.C. app. 1241j.

from or subjecting export activities to the cargo preference laws except to the extent those activities are exempt under section 4(b) of Public Law 95–501 (7 U.S.C. 1707a(b)). In the event of termination under this section, the 50 percent requirement in section 901(b) of the Merchant Marine Act, 1936 shall be in full effect.

NATIONAL ADVISORY COMMISSION ON AGRICULTURAL EXPORT TRANSPORTATION POLICY

Sec. 901g.[11, 24] (a) There is hereby established an advisory commission to be known as the National Advisory Commission on Agricultural Export Transportation Policy (hereafter in this section through section 901j referred to as the "Commission").

(b)(1) The Commission shall be composed of 16 members.

(2) Eight members of the Commission shall be appointed by the President.

(3) The chairman and ranking minority members of the Senate Committee on Agriculture, Nutrition, and Forestry, of the Subcommittee on Merchant Marine of the Senate Committee on Commerce, Science, and Transportation, of the House Committee on Agriculture, and of the House Committee on Transportation and Infrastructure[25] shall serve as members of the Commission.

(4)(A) Four of the members appointed by the President shall be representatives of agricultural producers, cooperatives, merchandisers, and processors of agricultural commodities.

(B) The remaining four members appointed by the President shall be representatives of the United States-flag maritime industry, two of whom shall represent labor and two of whom shall represent management.

(c)(1) The members of the Commission shall elect a Chairman from among its members.

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

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[24] 46 U.S.C. app. 1241k.

[25] The House Committee on Merchant Marine and Fisheries was abolished in the 104th Congress, and sec. 1(b)(3) of Public Law 104–14 (109 Stat. 186) stated the following:

"(3) the Committee on Merchant Marine and Fisheries of the House of Representatives shall be treated as referring to

"(A) the Committee on Agriculture of the House of Representatives, in the case of a provision of law relating to— inspection of seafood or seafood products;

"(B) the Committee on National Security of the House of Representatives, in the case of a provision of law relating to interoceanic canals, the Merchant Marine Academy and State Maritime Academies, or national security aspects of merchant marine;

"(C) the Committee on Resources of the House of Representatives, in the case of a provision of law relating to fisheries, wildlife, international fishing agreements, marine affairs (including coastal zone management) except for measures relating to oil and other pollution of navigable waters, or oceanography;

"(D) the Committee on Science of the House of Representatives, in the case of a provision of law relating to marine research; and

"(E) the Committee on Transportation and Infrastructure of the House of Representatives, in the case of a provision of law relating to a matter other than a matter described in any of subparagraphs (A) through (D).".

Sec. 408(c)(2) of Public Law 107–295 (116 Stat. 2117) subsequently struck out "Merchant Marine and Fisheries" and inserted in lieu thereof "Transportation and Infrastructure".

DUTIES OF THE COMMISSION

Sec. 901h.[11, 26] (a) It shall be the duty of the Commission to conduct a comprehensive study and review of the ocean transportation of agricultural exports subject to the cargo preference laws referred to in section 901b and to make recommendations to the President and the Congress for improving the efficiency of such transportation on United States-flag vessels in order to reduce the costs incurred by the United States in connection with such transportation. In carrying out such study and review, the Commission shall consider the extent to which any unfair or discriminatory practices of foreign governments increase the cost to the United States of transporting agricultural commodities subject to such cargo preference laws.

(b)(1) The Commission shall submit an interim report to the President and the Congress not later than one year after the date of the enactment of this subtitle and such other interim reports as the Commission considers advisable.

(2) The Commission shall submit a final report containing its findings and recommendations to the President and the Congress not later than two years after the date of the enactment of this subtitle. The report shall include recommendations for any changes in the provisions of paragraph (1) that would help assure that the cost of ocean freight and ocean freight differential incurred by the Department of Agriculture and the Commodity Credit Corporation on the agricultural export programs specified in section 901b, is not increased above historical levels as a result of the extra demand for United States-flag vessels caused by section 901b.

(3) Sixty days after the submission of the final report, the Commission shall cease to exist.

(c) The Commission shall include in its reports submitted pursuant to subsection (b) recommendations concerning the feasibility and desirability of achieving the following goals with respect to the ocean transportation of agricultural commodities subject to the cargo preference laws referred to in section 901b:

(1) Ensuring that the timing of commodity purchase agreements entered into by the United States in connection with the export of such commodities, and the methods of implementing such agreements, will minimize cost to the United States.

(2) Ensuring that shipments of such commodities are made on the most modern and efficient United States-flag vessels available.

(3) Ensuring that shipments of such commodities are made under the most advantageous terms available, including—

(A) charters for full shiploads;

(B) charters for intermediate or long term;

(C) charters for consecutive voyages and contracts of affreightment; and

(D) adjustment of rates in the event that vessels used for shipments of such commodities also carry cargoes on return voyages.

[26] 46 U.S.C. app. 1241*l*.

(4) Reduction and elimination of impediments, including delays in port, to the efficient loading and operation of the vessels employed for shipment of such commodities.

(5) Utilization of open and competitive bidding for the ocean transportation of such commodities.

INFORMATION AND ASSISTANCE TO BE FURNISHED TO THE COMMISSION

Sec. 901i.[11, 27] (a) Each department, agency, and instrumentality of the United States, including independent agencies, shall furnish to the Commission, upon request made by the Chairman, such statistical data, reports, and other information as the Commission considers necessary to carry out its functions.

(b) The Secretary of Agriculture and the Secretary of Transportation shall make available to the Commission such staff, personnel, and administrative services as may reasonably be required to carry out the Commission's duties.

COMPENSATION AND TRAVEL AND SUBSISTENCE EXPENSES OF COMMISSION MEMBERS

Sec. 901j.[11, 28] Members of the Commission shall serve without compensation in addition to compensation they may otherwise be entitled to receive as employees of the United States or as Members of Congress, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of duties vested in the Commission.

DEFINITION OF UNITED STATES FLAG VESSEL ELIGIBLE TO CARRY CARGOES UNDER CERTAIN SECTIONS

Sec. 901k.[11, 29] A United States flag vessel eligible to carry cargoes under sections 901b through 901d means a vessel, as defined in section 3 of title 1, United States Code, that is necessary for national security purposes and, if more than 25 years old, is within five years of having been substantially rebuilt and certified by the Secretary of Transportation as having a useful life of at least five years after that rebuilding.

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SEC. 1111.[30] (a) AUTHORITY TO GUARANTEE OBLIGATIONS FOR ELIGIBLE EXPORT VESSELS.—The Secretary may guarantee obligations for eligible export vessels—

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[27] 46 U.S.C. app. 1241m.

[28] 46 U.S.C. app. 1241n.

[29] 46 U.S.C. app. 1241o.

[30] 46 U.S.C. app. 1279d. Sec. 1355(a) of the National Defense Authorization Act for Fiscal Year 1994 (103–160; 107 Stat. 1811) added sec. 1111. Sec. 1355(b) of that Act further provided:

"(b) IMPLEMENTATION.—

"(1) INITIAL DESIGNATION OF COUNCIL MEMBERS.—Each member of the council established under section 1111(b) of the Merchant Marine Act, 1936, as added by subsection (a), shall name a designee for service on the council not later than 30 days after the date of the enactment of this Act. Each such member shall promptly notify the Secretary of Transportation of that designation.

"(2) DESIGNATION OF SENIOR MARAD OFFICIAL.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Transportation shall designate a senior official within the Maritime Administration to have the responsibility and authority to carry out the terms and conditions set forth under section 1111 of title XI the Merchant Marine Act,

Continued

(1) in accordance with the terms and conditions of this title applicable to loan guarantees in the case of vessels documented under the laws of the United States; or

(2) in accordance with such other terms as the Secretary determines to be more favorable than the terms otherwise provided in this title and to be compatible with export credit terms offered by foreign governments for the sale of vessels built in foreign shipyards.

(b) INTERAGENCY COUNCIL.—

(1) ESTABLISHMENT; COMPOSITION.—There is hereby established an interagency council for the purposes of this section. The council shall be composed of the Secretary of Transportation, who shall be chairman of the Council, the Secretary of the Treasury, the Secretary of State, the Assistant to the President for Economic Policy, the United States Trade Representative, and the President and Chairman of the United States Export-Import Bank, or their designees.

(2) PURPOSE OF THE COUNCIL.—The council shall—

(A) obtain information on shipbuilding loan guarantees, on direct and indirect subsidies, and on other favorable treatment of shipyards provided by foreign governments to shipyards in competition with United States shipyards; and

(B) provide guidance to the Secretary in establishing terms for loan guarantees for eligible export vessels under subsection (a)(2).

(3) CONSULTATION WITH U.S. SHIPBUILDERS.—The council shall consult regularly with United States shipbuilders to obtain the essential information concerning international shipbuilding competition on which to set terms and conditions for loan guarantees under subsection (a)(2).

(4) ANNUAL REPORT.—Not later than January 31 of each year (beginning in 1995), the Secretary of Transportation shall submit to Congress a report on the activities of the Secretary under this section during the preceding year. Each report shall include documentation of sources of information on assistance provided by the governments of other nations to shipyards in those nations and a summary of recommendations made to the Secretary during the preceding year regarding applications submitted to the Secretary during that year for loan guarantees under this title for construction of eligible export vessels.

1936, as added by subsection (a). The Secretary shall make the designation of that official known through a public announcement in a national periodical.".

Sec. 303 of the Fisheries Financing Act (title III of the Sustainable Fisheries Act; Public Law 104–297; 110 Stat. 3559 at 3615) added another sec. 1111, relating to fisheries financing and capacity reduction.

2. Executive Orders, Delegations of Authority and Reorganization Plans Relating to Foreign Assistance and Arms Exports [1]

a. Administration of Foreign Assistance and Related Functions

Executive Order 12163,[2] September 29, 1979, 44 F.R. 56673, 22 U.S.C. 2381 note, as amended by Executive Order 12226, July 22, 1980, 45 F.R. 49235; Executive Order 12321, September 14, 1981, 46 F.R. 46109; Executive Order 12365, May 24, 1982, 47 F.R. 22933; Executive Order 12423, May 26, 1983, 48 F.R. 24025; Executive Order 12458, January 14, 1984, 49 F.R. 1977; Executive Order 12500, January 24, 1985, 50 F.R. 3733; Executive Order 12560, May 24, 1986, F.R. 19159; Executive Order 12608, September 9, 1987, 52 F.R. 34617; Executive Order 12620, December 24, 1987, 52 F.R. 49135; Executive Order 12639, May 6, 1988, 53 F.R. 16691; Executive Order 12680, July 5, 1989, 54 F.R. 28995; Executive Order 12695, November 1, 1989, 54 F.R. 46589; Executive Order 12738, December 14, 1990, 55 F.R. 52033; Executive Order 13030, December 12, 1996, 61 F.R. 66187; Executive Order 13091, June 29, 1998, 63 F.R. 36153; Executive Order 13118, March 31, 1999, 64 F.R. 16595; Executive Order 13346, July 8, 2004, 69 F.R. 41905; and by Executive Order 13361, November 16, 2004, 69 F.R. 67633

By virtue of the authority vested in me by the Foreign Assistance Act of 1961, Reorganization Plan No. 2 of 1979,[2] the International Development Cooperation Act of 1979, and section 301 of title 3 of the United States Code, and as President of the United States, it is hereby ordered as follows:

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[1] See also Executive Order 13257 (February 13, 2002; 67 F.R. 7259), as amended, establishing the President's Interagency Task Force to Monitor and Combat Trafficking in Persons, in *Legislation on Foreign Relations Through 2004*, vol. I–A; Executive Order 12703 (February 20, 1990; 55 F.R. 6351), as amended, delegating authority related to the Support for East European Democracy (SEED) Program; Executive Order 12884 (December 1, 1993; 58 F.R. 64099), as amended, delegating functions Under the FREEDOM Support Act and Related Provisions of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, Executive Order 12880 (November 16, 1993; 58 F.R. 60989) and Executive Order 12992 (March 15, 1996; 61 F.R. 11287), related to international narcotics control, in this volume.

[2] On March 31, 1999, the President issued Executive Order 13118 (64 F.R. 16595), which substantially rewrote Executive Order 12163 to conform with requirements of the Foreign Affairs Reform and Restructuring Act of 1998 (division G of Public Law 105–277; 112 Stat. 2681–790).

Secs. 1401 and 1422(a)(2) of that Act provided that the following Executive Orders, delegation of authority and reorganization plan would cease to be effective on Apri1 1, 1999, or upon the date of abolition of the U.S. IDCA pursuant to the reorganization plan described in sec. 1601 of that Act:

(1) Reorganization Plan Numbered 2 of 1979 (5 U.S.C. App.).

(2) Secs. 1–101 through 1–103, secs. 1–401 through 1–403, sec. 1–801(a), and such other provisions that relate to the United States International Development Cooperation Agency or the Director of IDCA, of Executive Order 12163 (22 U.S.C. 2381 note; relating to administration of foreign assistance and related functions).

(3) The International Development Cooperation Agency Delegation of Authority Numbered 1 (44 Fed. Reg. 57521), except for secs. 1–6 of such Delegation of Authority.

(4) Sec. 3 of Executive Order No. 12884 (58 Fed. Reg. 64099; relating to the delegation of functions under the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992, the Foreign Assistance Act of 1961, the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1993, and sec. 301 of title 3, United States Code).

Amendments made to Executive Order 12163 by Executive Order 13118, March 31, 1998 (64 F.R. 16595), to implement the Foreign Affairs Reform and Restructuring Act of 1998 are incorporated herein.

1–1.[3] DEPARTMENT OF STATE.

1–100. Delegation of Functions. (a) Exclusive of the functions otherwise delegated, or reserved to the President, by this order, Executive Order 12884, Executive Order 11579, and Executive Order 12757,[4] and subject to the provisions of such orders, there are hereby delegated to the Secretary of State (referred to in this Part as the "Secretary") all functions conferred upon the President by:

(1) the Foreign Assistance Act of 1961 (22 U.S.C. 2151 *et seq.*) ("Act");

(i) except that with respect to section 505(a) of the Act, such functions only insofar as those functions relate to other provisions which may be required by the President or only insofar as they relate to consent;

(ii except that with respect to section 505(b) of the Act, such functions only insofar as those functions pertain to countries that agree to the conditions set forth therein;

(2) section 1205(b) of the International Security and Development Cooperation Act of 1985 ("ISDCA of 1985");

(3) section 8(d) of the Act of January 12, 1971 (22 U.S.C. 2321b(d));

(4) section 607 of the International Security Assistance and Arms Export Control Act of 1976 (22 U.S.C. 2394a);

(5) section 402(b)(2) of title 10, United States Code, which shall be exercised in consultation with the Secretary of Defense;

(6) the third proviso under the heading "Development Assistance" contained in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (as contained in Public Law 105–277);

(7) section 572 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461);

(8) sections 508, 517, 518, 528(a), 535, 539, 544, 561, 563, 572, 574, 575, 585, 594 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (as contained in Public Law 105–277);

(9) section 523 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (as contained in Public Law 105–277), which shall be exercised in consultation with the Secretary of the Treasury;

(10) section 551 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (as contained in Public Law 105–277);

(11) section 591 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118), and the provisions of law referenced therein;

(12) section 821(b) of the Western Hemisphere Drug Elimination Act (as contained in Public Law 105– 277);[5]

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[3] Sec. 1 of Executive Order 13118, March 31, 1999 (64 F.R. 16595), amended and restated part 1–1 in its entirety.

[4] Executive Order 13345, July 8, 2004 (69 F.R. 41901) revoked Executive Order 12757.

[5] Sec. 3 of Executive Order 13346 (69 F.R. 41905) struck out a period at the end of para. (12); inserted in lieu thereof a semicolon, and added new paras. (13), (14), and (15).

(13)[5] title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107–115), under the heading "Assistance for the Independent States of the Former Soviet Union," in subsections (g)(4) and (6);

(14)[5] section 512 of Division D of the Consolidated Appropriations Act, 2004 (Public Law 108–199);

(15)[5] section 5(c) and 6 of the Anglo–Irish Agreement Support Act of 1986 (Public Law 99–415), as amended;[6]

(16)[6] the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (Public Law 108–25) (the "HIV/AIDS Act"), as amended, and amendments made by the HIV/AIDS Act, which the Secretary shall perform, in the case of section 304, after consultation with the Secretary of Health and Human Services.

(b) The functions under section 653 of the Act delegated to the Secretary shall be exercised in consultation with the Secretary of Defense, insofar as they relate to functions under the Act administered by the Department of Defense, and the Director of the Office of Management and Budget.

(c) The functions under sections 239(f), 620(e), 620(g), 620(j), 620(q), and 620(s) of the Act delegated to the Secretary shall be exercised in consultation with the Administrator of the United States Agency for International Development.

(d)[7] The Secretary shall perform all public information functions abroad with respect to the foreign assistance, aid, and development programs of the United States Government, to the extent such functions are not specifically assigned by statute to be performed by a different officer.

(e) The Secretary may redelegate to any other officer or agency of the Executive branch functions delegated to the Secretary by this order to the extent such delegation is not otherwise prohibited by law.

1–2.[8] UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

1–200. United States Agency for International Development.

(a) The United States Agency for International Development is an independent establishment within the Executive branch. Any reference in the Act to the agency primarily responsible for administering part I of the Act, or to the Administrator of such agency, shall be deemed to be a reference to the United States Agency for International Development or to the Administrator of that agency, as appropriate.

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[6] Sec. 1(a) of Executive Order 13361 (69 F.R. 67633) struck out a period at the end of para. (15); inserted in lieu thereof a semicolon, and added new para. (16).

[7] Sec. 11 of Executive Order 13118, March 31, 1999 (64 F.R. 16599), provides that "The provisions of this order shall become effective as of April 1, 1999, except that the authority contained in section 1–100(d), and the amendment made by section 5(2) of this order, shall become effective as of October 1, 1999.".

[8] Sec. 2 of Executive Order 13118, March 31, 1999 (64 F.R. 16596), amended and restated part 1–2 in its entirety.

(b) The United States Agency for International Development shall be headed by an Administrator appointed pursuant to section 624(a) of the Act.

(c) The officers provided for in section 624(a) of the Act shall serve in the United States Agency for International Development.

(d) The Office of Small Business provided for in section 602(b) of the Act shall be in the United States Agency for International Development.

(e) To the extent practicable, the Administrator of the United States Agency for International Development will exercise functions relating to Foreign Service personnel in a manner that will assure maximum compatibility among agencies authorized by law to utilize the Foreign Service personnel system. To this end, the Administrator shall consult regularly with the Secretary of State.

1–3. DEPARTMENT OF DEFENSE

1–301. Delegation of Functions. Subject to the provisions of this order, there are hereby delegated to the Secretary of Defense:

(a) The functions conferred upon the President by Part II (except chapters 4, 6, and 8 thereof[9] of the Act) not otherwise delegated or reserved to the President.

(b) To the extent that they relate to other functions under the Act administered by the Department of Defense, the functions conferred upon the President by sections 602(a), 605(a), 625(a), 625(d)(1), 625(h), 627, 628, 630(3), 631(a), 634B, 635(b) (except with respect to negotiation, conclusion, and termination of international agreements), 635(d), 635(g), and 636(i) of the Act.[10]

(c) Those functions under section 634A of the Act, to the extent they relate to notifications to the Congress concerning changes in programs under chapters 2 and 5 of part II of the Act[11] and under the Arms Export Control Act, as amended,[12] subject to prior consultation with the Secretary of State.

(d) The functions under sections 627, 628, and 630(3) of the Act delegated to the Secretary of Defense shall be exercised in consultation with the Secretary of State.

(e)[13] the functions under section 655 of the Act insofar as they related to defense articles, defense services, and international military education and training furnished by grant or sale by the Secretary of Defense, except to the extent otherwise delegated.

(f)[14] Those functions conferred upon the President under section 616 of the ISDCA of 1985.

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[9] The reference to chapter 8 was added by Executive Order 12458, Jan. 14, 1984 (49 F.R. 1977).

[10] Sec. 1 of Executive Order 12423, May 26, 1983 (48 F.R. 24025), added the reference to sec. 636(i).

[11] Sec. 3 of Executive Order 13118, March 31, 1999 (64 F.R. 16596), struck out "part II of the Act (except chapters 4, 6, and 8 thereof)" and inserted in lieu thereof "chapters 2 and 5 of part II of the Act".

[12] The reference to the Arms Control Export Act, as amended, was added by sec. 8 of Executive Order 12560, May 24, 1986 (51 F.R. 19160).

[13] Subsec. (e) was added by sec. 3(b) of Executive Order 13091, June 29, 1998 (63 F.R. 36153). Sec. 3(a) of that Order redesignated subsequent subsecs. (e) through (g) as subsecs. (f) through (h), respectively.

[14] Subsec. (f) was added as subsec. (e) by sec. 7 of Executive Order 12560, May 24, 1986 (51 F.R. 19160). Sec. 3(a) of Executive Order 13091, June 29, 1998 (63 F.R. 36153) redesignated subsecs. (e) through (g) as subsecs. (f) through (h), respectively.

(g)[15] The functions conferred upon the President under section 573 and section 581(b)(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167).

(h)[16] The functions conferred upon the President under section 3 of the International Narcotics Control Act of 1989 (Public Law 101–231), which shall be exercised in consultation with the Secretary of State.

1–302. Reports and Information. In carrying out the functions under section 514 of the Act delegated to him by section 301 of this order, the Secretary of Defense shall consult with the Secretary of State.

[**1–4.** * * * Revoked—1999][17]

1–5. OTHER AGENCIES

1–501. Department of the Treasury. (a) There are delegated to the Secretary of the Treasury the functions conferred upon the President by:

(1)[18] section 305, insofar as it relates to the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the Asian Development Bank, the African Development Fund, and the International Monetary Fund;

(2)[18] the second sentence of section 612(a) of the Act;[19]

(3)[18] section 502 of the Mutual Security Act of 1954 (22 U.S.C. 1754); and[19]

(4)[19] section 655(c) of the Act.

(b) The Secretary of the Treasury shall continue to administer any open special foreign country accounts established pursuant to former section 514 of the Act as enacted by section 201(f) of Public Law 92–226 (86 Stat. 25) and repealed by Section 12(b)(5) of Public Law 93–189 (87 Stat. 722).

(c) The functions under section 305 of the Act delegated to the Secretary of the Treasury shall be exercised in consultation with the Secretary of State.[20]

1–502. Department of Commerce. There is hereby delegated to the Secretary of Commerce so much of the functions conferred upon

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[15] Sec. 6 of Executive Order 12639, May 6, 1988 (53 F.R. 16691), added subsec. (g), redesignated from "(f)" by sec. 3(a) of Executive Order 13091, June 29, 1998 (63 F.R. 36153). Sec. 5 of Executive Order 12738, December 14, 1990 (55 F.R. 52033), updated reference to current Foreign Operations Appropriations Act.

[16] Sec. 5(2) of Executive Order 12738, December 14, 1990 (55 F.R. 52033), added subsec. (g), subsequently redesignated as subsec. (h) by sec. 3(a) of executive Order 13091, June 29, 1998 (63 F.R. 36153).

[17] Sec. 4 of Executive Order 13118, March 31, 1999 (64 F.R. 16596), revoked part 1–4, which had established the Institute for Scientific and Technological Cooperation (ISTC), the Council on International Scientific and Technological Cooperation, and two additional positions in the ISTC.

[18] Sec. 1(h) of Executive Order 12365, May 24, 1982 (47 F.R. 22933), struck out para. (1) (which concerned sec. 301(e)(3) of the Foreign Assistance Act of 1961) and renumbered the remaining paragraphs accordingly.

[19] Sec. 4(a) of Executive Order 13091, June 29, 1998 (63 F.R. 36154), struck out "and" at the end of para. (2). Sec. 4(b) of that Order inserted "; and" at the end of para. (3) and added a new para. (4).

[20] Sec. 5(a) of Executive Order 13118, March 31, 1999 (64 F.R. 16596), struck out "Director, as provided in Executive Order No. 11269 of February 14, 1966, as amended" and inserted in lieu thereof "Secretary of State".

the President by section 601(b)(1) of the Act as consists of drawing the attention of private enterprise to opportunities for investment and development in less developed friendly countries and areas.

1–503. Office of Personnel Management. There is hereby delegated to the Director of the Office of Personnel Management the function of prescribing regulations conferred upon the President by the proviso contained in section 625(b) of the Act.

[**1–504.** * * * Revoked—1999][21]

1–505.[22] **Trade and Development Agency.** There is delegated to the Director of the Trade and Development Agency the functions conferred upon the President by section 661(d) of the Act.

[**1–506.** * * * Revoked—1999][23]

1–6. ADDITIONAL DELEGATIONS AND LIMITATIONS OF AUTHORITY; CONSULTATION

1–601. General Delegation of Functions. There are hereby delegated to the heads of agencies having responsibilities for carrying out the provisions of the Act all functions conferred upon the President by:

(a) section 654 (except as reserved to the President); and

(b) those provisions of acts appropriating funds under the authority of the Act that relate to the Act, or other acts authorizing such funds, insofar as they relate to the functions delegated by this order.

1–602. Personnel. (a) In carrying out the functions conferred upon the President by the provisions of section 625(d)(1) of the Act, and by this order delegated to the Secretary of State, the Secretary[24] shall authorize such of the agencies that administer programs under the Act as he may deem appropriate to perform any of the functions under section 625(d)(1) of the Act to the extent that the said functions relate to the programs administered by the respective agencies.

(b) Persons appointed, employed, or assigned after May 19, 1959, under section 527(c) of the Mutual Security Act of 1954 or section 625(d) of the Act for the purpose of performing functions under such Acts outside the United States shall not, unless otherwise agreed by the agency in which such benefits may be exercised, be entitled to the benefits provided by section 528 of the Foreign Service Act of 1946 in cases in which their service under the appointment, employment, or assignment exceeds thirty months.

1–603. Special Missions and Staffs Abroad. The maintenance of special missions or staffs abroad, the fixing of the ranks of the chiefs thereof after the chiefs of the United States diplomatic missions, and the authorization of the same compensation and allowances as the chief of mission, class 3 and class 4, within the meaning of the Foreign Service Act of 1946 (22 U.S.C. 801 *et seq.*), all

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[21] Sec. 5(2) of Executive Order 13118, March 31, 1999 (64 F.R. 16597), revoked sec. 1–504, effective October 1, 1999, pursuant to sec. 11 of that Order. The section had assigned tasks to the International Communication Agency.

[22] Sec. 5(3) of Executive Order 13118, March 31, 1999 (64 F.R. 16597), amended and restated sec. 1–505. It previously established the Development Loan Committee.

[23] Sec. 5(4) of Executive Order 13118, March 31, 1999 (64 F.R. 16597), revoked sec. 1–506, which had established the Development Coordination Committee.

[24] Sec. 6(1) of Executive Order 13118, March 31, 1999 (64 F.R. 16597), struck out "Director of IDCA, the Director" and inserted in lieu thereof "Secretary of State, the Secretary".

under section 631 of the Act, shall be subject to the approval of the Secretary of State.

1–604. International Agreements. The negotiation, conclusion, and termination of international agreements pursuant to the Act[25] shall be subject to the requirements of 1 U.S.C. 112b and to applicable regulations and procedures.

1–605. Interagency Consultation. Each officer to whom functions are delegated by this order, shall, in carrying out such functions, consult with the heads of other departments and agencies, including the Director of the Office of Management and Budget, on matters pertaining to the responsibilities of departments and agencies other than his or her own.

1–7. RESERVED FUNCTIONS

1–701. Reservation of Functions to the President. There are hereby excluded from the functions delegated by the foregoing provisions of this order:

(a) The functions conferred upon the President by sections 122(e), 298(a),[26] 493,[27] 504(b), 613(a), 614(a), 620(a), 620(d), 620(x), 620A, 620C(c), 621(a), 622(b), 622(c), 633(a), 633(b), 640B,[28] and 663(b) of the Act.

(b)[29] The functions conferred upon the President by the Act and section 408(b) of the Mutual Security Act of 1954 with respect to the appointment of officers required to be appointed by and with the advice and consent of the Senate and with respect to the appointment of officers pursuant to sections 233(b) and 624(c) of the Act.

(c)[29, 30] The functions conferred upon the President with respect to determinations, certifications, directives, or transfers of funds, as the case may be, by sections 209(d), 303, 465(b), 490(h), 505(d)(2)(A), 505(d)(3), 506(a), 552(c), 552(e), 610, 614(c), 620E, 632(b), 633A, 663(a) of the Act; those under section 604(a) of the Act except insofar as they related to procurement under chapter 1 of part I and chapter 4 of part II.

(e) The following-described functions conferred upon the President:

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[25] Sec. 6(2) of Executive Order 13118, March 31, 1999 (64 F.R. 16597), struck out ", title IV of the IDC Act of 1979, or section 402 of the Mutual Security Act of 1954" at this point.

[26] Sec. 6(1) of Executive Order 12738, December 14, 1990 (55 F.R. 52033), struck out "451" here.

[27] Sec. 7(1)(B) of Executive Order 13118, March 31, 1999 (64 F.R. 16597), inserted "493," after "298(a),".

[28] Sec. 7(1)(A) of Executive Order 13118, March 31, 1999 (64 F.R. 16597), struck out "662(a)," at this point.

[29] Sec. 7(2) of Executive Order 13118, March 31, 1999 (64 F.R. 16597), struck out subsec. (b), which had referred to the functions conferred upon the President by sections 402, 405(a), 406 and 407 of the IDC Act of 1979, and redesignated subsecs. (c) and (d) as subsecs. (b) and (c), respectively.

[30] Sec. 6(2) of Executive Order 12738, December 14, 1990 (55 F.R. 52033), restated this subsec., and added the text following the semicolon. Sec. 7 of Executive Order 12639, May 6, 1988 (53 F.R. 16691), deleted "(2)" following sec. 670(a). References to secs. 465(b), 552(c), and 552(e) were added by sec. 9 of Executive Order 12560, May 24, 1986 (51 F.R. 19160). Sec. 3 of Executive Order 12500, Jan. 24, 1985 (50 F.R. 3733), inserted the reference to section 481(h) in lieu of a reference to 481(a). Sec. 1(b) of Executive Order 12365, May 24, 1982 (47 F.R. 22933), deleted references to sec. 659 and 670(b)(1), and added the references to sec. 620E, 670(a)(2), 670(b)(2), and 670(b)(3). A reference to sec. 515(f) was deleted by sec. 1 of Executive Order 12321, Sept. 14, 1981 (46 F.R. 46109). Sec. 7(3) of Executive Order 13118, March 31, 1999 (64 F.R. 16597), inserted "209(d)" before "303", struck out "481" and inserted in lieu thereof "490", and struck out ", 669(b)(1), 670(a), 670(b)(2), and 670(b)(3)".

(1) Those under section 503(a) that relate to findings: *Provided,* That the Secretary of State, in the implementation of the functions delegated to him under sections 505(a)(1), (a)(4), and (e) of the Act, is authorized to find, in the case of a proposed transfer of a defense article or related training or a related defense service by a foreign country or international organization to a foreign country or international organization not otherwise eligible under section 503(a) of the Act, whether the proposed transfer will strengthen the security of the United States and promote world peace.

(2) Those under section 505(b) in respect of countries that do not agree to the conditions set forth therein.

(3) That under section 614(b) with respect to determining any provisions of law to be disregarded to achieve the purpose of that section.

(4) That under the second sentence of section 654(c) with respect to the publication in the Federal Register of any findings or determination reserved to the President: *Provided,* That any officer to whom there is delegated the function of making any finding or determination within the purview of section 654(a) is also authorized to reach the conclusion specified in performance of the function delegated to him.

(f)[31] That under section 523(d) of the Mutual Security Act of 1954 (22 U.S.C. 1783(d)).

(g)[32] Those under sections 130, 504 and 505 of the ISDCA of 1985.

(h)[33] Those functions conferred by section 1(f)(1) and section 1(f)(2)(B)(ii)(VII) of the State Department Basic Authorities Act of 1956, as amended (22 U.S.C. 2651a).

(i)[33] Those functions conferred by section 202(d)(4)(C)(i) and (ii) of the HIV/AIDS Act, as amended.

1–702. Subsequent Amendments. Functions conferred upon the President by subsequent amendments to the Act are delegated to the Secretary[34] only insofar as they do not relate directly and necessarily to the conduct of programs and activities that either the President or an agency other than the Department of State[35] is authorized to administer pursuant to express reservation or delegation of authorities in a statute or in this or another Executive Order.

1–703.[36] Office of Management and Budget. In this order the Director of the Office of Management and Budget shall retain all

[31] Sec. 1(i) of Executive Order 12365, May 24, 1982 (47 F.R. 22933), struck out subsec. (f), which contained references to sec. 103(b) (first proviso), 104, and 203 of the Mutual Defense Assistance Control Act of 1951, and renumbered the remaining subsections accordingly.

[32] Subsec. (g), originally added as subsec. (h), was amended and restated by sec. 10 of Executive Order 12560, May 24, 1986 (51 F.R. 19160). Previously, this subsec. made reference to sec. 607 of the Foreign Assistance and Related Programs Appropriations Act, 1979. Sec. 7 of Executive Order 12639, May 6, 1988 (53 F.R. 16691), deleted the following text from the end of this paragraph: "and under section 529 of the Foreign Assistance and Related Programs Appropriations Act, 1986". Sec. 7(4) of Executive Order 13118, March 31, 1999 (64 F.R. 16597), struck out reference to sec. 131.

[33] Sec. 1(b) of Executive Order 13361 (69 F.R. 67633) added subsecs. (h) and (i).

[34] Sec. 7(5)(A) of Executive Order 13118, March 31, 1999 (64 F.R. 16597), struck out "Director" and inserted in lieu thereof "Secretary".

[35] Sec. 7(5)(B) of Executive Order 13118, March 31, 1999 (64 F.R. 16597), struck out "IDCA" and inserted in lieu thereof "the Department of State".

[36] Added by sec. 7(6) of Executive Order 13118, March 31, 1999 (64 F.R. 16597).

authorities related to the implementation of his budgetary and policy coordination functions, including the authority to:

(a) request and receive information from any agency that is subject to this delegation;

(b) carry out all responsibilities associated with implementing the Government Performance and Results Act, the Government Management Reform Act, and other comparable government-wide statutes dealing with management; and

(c) carry out all statutory budget and policy coordination responsibilities assigned to the Director of the Office of Management and Budget by statute or Executive order.

1–8.[37] FUNDS

1–800. Allocation of Funds. Funds described below that are appropriated or otherwise made available to the President shall be deemed to be allocated without any further action of the President, as follows:

(a) Except as provided in subsections (b) and (c), there are allocated to the Secretary all funds made available for carrying out the Act, including any funds appropriated under the heading "Nonproliferation, Anti-Terrorism, Demining and Related Programs".

(b) There are allocated to the Secretary of Defense all funds made available for carrying out chapters 2 and 5 of Part II of the Act.

(c) There are allocated to the Secretary of the Treasury all funds made available for carrying out section 129 of the Act.

(d) The Secretary of State, the Secretary of Defense, and the Secretary of the Treasury may allocate or transfer as appropriate any funds received under subsections (a), (b), and (c) of this section, respectively, to any agency or part thereof for obligation or expenditure thereby consistent with applicable law.

1–9. GENERAL PROVISIONS

1–901. Definition. As used in this order, the word "function" includes any duty, obligation, power, authority, responsibility, right, privilege, discretion, or activity.

1–902. References to Orders and Acts. Except as may for any reason be inappropriate:

(a) References in this order or in any other Executive Order to (1) the Foreign Assistance Act of 1961 (including references herein to "the Act"), (2) unrepealed provisions of the Mutual Security Act of 1954, or (3) any other act that relates to the subject of this order shall be deemed to include references to any subsequent amendments thereto.

(b) References in any prior Executive Order to the Mutual Security Act of 1954 or any provisions thereof shall be deemed to be references to the Act or the corresponding provision, if any, thereof.

[37] Sec. 8 of Executive Order 13118, March 31, 1999 (64 F.R. 16597), amended and restated part 1–8.

(c)[38] References in this order to provisions of any Act, and references in any other Executive Order or in any memorandum delegation to provisions of any Act related to the subject of this order shall be deemed to include references to any[39] provision of law that is the same or substantially the same as such provisions, respectively.

(d) References in this order or in any other Executive Order to this order or to any provision thereof shall be deemed to include references thereto, respectively, as amended from time to time.

(e) References in any prior Executive Order not superseded by this order to any provisions of any Executive Order so superseded shall hereafter be deemed to be references to the corresponding provisions, if any, of this order.

1–903.[40] **Prior Executive Orders.** (a) The following are revoked:

(1) Executive Order No. 10973 of November 3, 1961, as amended;

(2) section 2(a) of Executive Order No. 11579 of January 19, 1971; and

(3) Executive Order No. 10893 of November 8, 1960.

(b) The following are amended: * * *

1–904. Saving Provisions. Except to the extent inconsistent with this order, all delegations of authority, determinations, authorizations, regulations, rulings, certificates, orders, directives, contracts, agreements, and other actions made, issued, or entered into with respect to any function affected by this order and not revoked, superseded, or otherwise made inapplicable before the date of this order, shall continue in full force and effect until amended, modified, or terminated by appropriate authority.

1–905. Effective Date. The provisions of this order shall become effective as of October 1, 1979.

1–906.[41] **Implementation.** In carrying out this order, officers of the United States shall ensure that all actions taken by them are consistent with the President's constitutional authority to: (a) conduct the foreign affairs of the United States; (b) withhold information the disclosure of which could impair the foreign relations, the national security, the deliberative processes of the Executive, or the performance of the Executive's constitutional duties; (c) recommend for congressional consideration such measures as the President may judge necessary and expedient; and (d) supervise the unitary executive branch.

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[38] Sec. 4 of Executive Order 12500, Jan. 24, 1985 (50 F.R. 3733), amended and restated subsec. (c).

[39] Sec. 9 of Executive Order 13118, March 31, 1999 (64 F.R. 16598), struck out "hereafter-enacted" after "any".

[40] Sec. 9 of Executive Order 13118, March 31, 1999 (64 F.R. 16598), struck out subsecs. (c) and (d) of this section. The two subsecs. had provided as follows:

"(c) Any reference in any other Executive Order to the Agency for International Development or the Administrator thereof shall be deemed to refer also to the International Development Cooperation Agency or the Director thereof, respectively.

"(d) As authorized by section 403(c) of the IDC Act of 1979, the reference in Executive Order No. 11223 of May 12, 1965 to 'the performance of functions authorized by this Act' shall be deemed to include the performance of functions authorized by section 403 of the IDC Act of 1979.".

[41] Sec. 1(c) of Executive Order 13361 (69 F.R. 67633) added sec. 1–906.

b. State Department Delegation of Authority No. 145

State Department Delegation of Authority No. 145, February 4, 1980, 45 F.R. 11655, as amended by Delegation of Authority No. 145–1, July 15, 1980, 45 F.R. 51974; Delegation of Authority No. 145–2, February 4, 1984, 49 F.R. 7018; Delegation of Authority No. 145–4, February 19, 1986, 41 F.R. 5942; Delegation of Authority 145–5, January 22, 1988, 53 F.R. 5072; Delegation of Authority 145–6, February 23, 1988, 53 F.R. 8540; Delegation of Authority 145–7, July 1, 1991, 56 F.R. 34088; Delegation of Authority 145–8, June 29, 1993; Delegation of Authority 145–9, May 5, 1994; Delegation of Authority 145–10, June 10, 1994, 59 F.R. 33812; Delegation of Authority 145–11, October 24, 1994, 59 F.R. 54668; Delegation of Authority 145–13, May 16, 1996, 61 F.R. 25727; Department of State Public Notice 2841, May 31, 1998, 63 F.R. 33754; Department of State Delegation of Authority No. 145–12, July 30, 1998, 63 F.R. 46094; Delegation of Authority of March 31, 1999, unnumbered and unpublished; Delegation of Authority No. 145–16, July 21, 1999, 64 F.R. 41482; and by Delegation of Authority No. 145–18, July 30, 2004, 69 F.R. 45880

FOREIGN ASSISTANCE ACT OF 1961 AND CERTAIN RELATED ACTS

DELEGATION OF AUTHORITY

By virtue of the authority vested in me by the Foreign Assistance Act of 1961, as amended, 22 U.S.C. 2151 *et seq.* (hereinafter "the Act"), Executive Order No. 12163 of September 29, 1979, 44 F.R. 56673 (hereinafter "the Order"), and section 4 of the Act of May 26, 1949 (63 Stat. 111, 22 U.S.C. 2658), the following functions are hereby delegated:

Section 1. Functions Delegated to Officers of the Department of State

The following functions are delegated to officers of the Department of State as indicated:

(a) To the Under Secretary for Arms Control and International Security: [1]

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[1] Department of State Delegation of Authority 145–10, June 10, 1994 (59 F.R. 33812), struck out "Under Secretary for Security Assistance, Science and Technology", and inserted in lieu thereof "Under Secretary for Arms Control and International Security Affairs". Department of State Delegation of Authority 145–16, July 21, 1999 (64 F.R. 41482), subsequently struck out "Affairs".

Department of State Delegation of Authority 229 (Public Notice 3022; March 30, 1999; 64 F.R. 17208), provided the following:

"By virtue of the authority vested in me by the laws of the United States, including the Foreign Assistance Act of 1961, the Arms Export Control Act, and the State Department Basic Authorities Act, and relevant delegations of authority, including the memorandum delegation signed by the President on November 4, 1997, and to the extent permitted by the law, I hereby delegate—

"(a) all authorities vested in the Secretary of State (including all authorities delegated by the President to the Secretary of State by an act, order, determination, delegation of authority, regulation or executive order heretofore or hereinafter enacted or issued) that have been or may be delegated or redelegated to the Under Secretary of State for Arms Control and International Security—

"(1) to John Holum for such period as he serves in the Department of State, except that, to the extent that such an authority derives from a delegation of authority from the President, this paragraph shall apply only to the extent that there is a statutory

Continued

(1) Exclusive of the functions reserved to the Secretary of State herein or otherwise delegated, the functions conferred upon the Secretary by section 1–100[2] of the order insofar as such functions relate to programs under part II of the Act (including chapters 4 and 6 thereof), and by Executive Order 11958 of January 18, 1977 (42 F.R. 4311), relating to sales and exports under the Arms Export Control Act (22 U.S.C. 2751 *et seq.*).

(2) Subject to section 3(a)[3] of this delegation of authority, the functions conferred upon the Secretary of State by statute or[4] by sections 531(b)[5] and 622(c) of the Act and by section 2(b) of the Arms Export Control Act relating to continuous supervision and general direction of economic support assistance[6] and military assistance and sales programs and exports, including, but not limited to, whether there shall be an economic support program for a country and the amount thereof, a military assistance program for a country and the value thereof or a military sale to a country and the amount thereof, and whether there shall be delivery or other performance under such program, sale or export, to the end that such programs, sales and exports are effectively integrated both at home and abroad and the foreign policy of the United States is best served thereby. The functions under section 531(b) shall be exercised in cooperation with the Administrator of the United States Agency for International Development (hereinafter "USAID").[7]

(3) The functions conferred upon the Secretary of State by—

(A) sections 39 and 42(b) of the Arms Export Control Act,

(B) section 504 of the Foreign Relations Authorization Act, fiscal year 1979 (22 U.S.C. 2656d),[8]

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basis for delegating an authority to an individual with respect to whom the Senate has not provided advice and consent; and

"(2) to the Assistant Secretary of State for Political-Military Affairs, for such functions as are within his area of responsibility, to the extent that such an authority derives from a delegation of authority from the President and the Office of the Legal Adviser has not identified a statutory basis for delegating the authority to an individual with respect to whom the Senate has not provided advice and consent; and

"(b) to the Under Secretary of State for Arms Control and International Security all authorities that, before the effective date described in section 1201 of the Foreign Affairs Agencies Consolidation Act of 1998 (the 'Act') were vested in the Director of the United States Arms Control and Disarmament Agency and that, pursuant to amendments made by the Act, are now vested in the Secretary of State.

"References in any previous delegations of authority to the Under Secretary for Arms Control and International Security Affairs shall hereinafter be deemed to be references to the Under Secretary for Arms Control and International Security except as specifically provided to the contrary.

"This delegation of authority shall be without prejudice to the authority of any person to exercise any authority pursuant to any other applicable delegation of authority. Paragraph (a) of this delegation of authority shall cease to be effective upon the appointment by the President, with the advice and consent of the Senate, of an individual to the position of Under Secretary of State for Arms Control and International Security. The Secretary or the Deputy Secretary may at any time exercise any of the functions described above.".

[2] Sec. 1 of Delegation of Authority of March 31, 1999 (neither numbered nor published), struck out "1–201" and inserted in lieu thereof "1–100".

[3] should probably refer to sec. 4 in its entirety, as amended by the Delegation of Authority of March 31, 1999 (neither numbered nor published).

[4] Sec. 2(a) of Delegation of Authority of March 31, 1999 (neither numbered nor published), inserted "by statute or" after "Secretary of State".

[5] Sec. 2(b) of Delegation of Authority of March 31, 1999 (neither numbered nor published), struck out "531(a)(2)" and inserted in lieu thereof "531(b)".

[6] Sec. 2(c) of Delegation of Authority of March 31, 1999 (neither numbered nor published), struck out "economic assistance" and inserted in lieu thereof "economic support assistance".

[7] Sec. 2(d) of Delegation of Authority of March 31, 1999 (neither numbered nor published), added this sentence.

[8] Department of State Delegation of Authority No. 145–13, May 16, 1996 (61 F.R. 25727), struck out "and" at the end of subpara. (B), struck out a period at the end of subpara. (C) and added ", and", and added subpara. (D).

(C)[9] section 1454 of the Department of Defense Authorization Act, 1986 (PL 99–145, 10 U.S.C. 2547), and (to the extent not otherwise expressly delegated or reserved) other authorities and responsibilities of the Secretary of State relating to the provision of Department of Defense equipment or services for humanitarian purposes,

(D)[8] Section 1324(a) of Title XIII of the Defense Authorization Act, 1996 (Public Law 104–106), and

(E)[10] Section 585 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997, as enacted in P.L. 104–208.

(4) The functions conferred on the President by—

(A) section 8(d) of the act of January 12, 1971 (22 U.S.C. 2321b(d)); and

(B) section 607 of the International Security Assistance and Arms Export Control Act of 1976 (22 U.S.C. 2394a).

(C)[11] Section 1540(b)(1)(A) of the Department of Defense Authorization Act, 1985, (Pub. L. 98–525), who shall exercise such function in consultation with the Secretary of Defense.

(5)[12] The function of consultation, pursuant to the Order and Executive Order 11958, with the Secretary of Defense, the Director of the Office of Management and Budget, and the Administrator of USAID.

(6)[13] The functions conferred on the Secretary of State by sections 1701–1703 of the National Defense Authorization Act for Fiscal Year 1991 (NDAA) (Public Law 101–510; 50 U.S.C. App. 2402 note, 2405, 2410(b); 22 U.S.C. 2797–2797c), and all functions conferred on the President by sections 1701–1703 of the NDAA; sections 303, 324, and 401–405 of the Foreign Relations Authorization Act, fiscal Years 1992 and 1993 (Public Law 102–138); sections 305, 306, 308, and all of sections 307 with the exception of subsection 307(b)(2)(F)(ii), of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (Public Law 102–182; 50 U.S.C. App. 2410c; 22 U.S.C. 2798, 5604–5606); sections 241 and 1097 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190); and section 1364 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484), to the extent that such functions were delegated to the Secretary of State pursuant to Executive Order 12851 of June 11, 1993.

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[9] Subparagraph (C) was added by State Department Delegation of Authority 145–6, February 23, 1988 (53 F.R. 8540).

[10] Department of State Delegation of Authority issued in 1998, unnumbered, undated, unpublished #2, struck out "and" at the end of subpara. (C); struck out a period at the end of subpara. (D) and inserted in lieu thereof ", and"; and added a new subpara. (E).

[11] Subpara. (C) was added by State Department Delegation of Authority No. 145–4, February 19, 1986 (51 F.R. 5942).

[12] Sec. 3 of Delegation of Authority of March 31, 1999 (neither numbered nor published), amended and restated para. (5). It formerly read as follows:

"(5) The function of consultation, pursuant to the order and Executive Order 11958, with the Secretary of Defense, the Director of the Office of Management and Budget and the Director of the International Development Cooperation Agency (hereinafter 'IDCA').".

[13] Department of State Delegation of Authority No. 145–7, July 1, 1991 (56 F.R. 34088), added para. (6) to confer functions assigned to the President by title XVII of the National Defense Authorization Act for Fiscal Year 1991 to the Secretary of State. Paragraph (6) was amended and restated by Delegation of Authority No. 145–8 of June 29, 1993. The current text was added by Delegation of Authority No. 145–10, June 10, 1994 (59 F.R. 33812).

(7)[14] The functions conferred on the Secretary of State by section 374 of Title 10, United States Code and other authorities and responsibilities of the Secretary of State related to the provision of Department of Defense equipment and services for narcotics-related purposes.

(8)[15] The functions specified in sections 504 and 508[16] of the FREEDOM Support Act (22 U.S.C. 5801 *et seq.*) and Title III of the Foreign Operations, Export Financing, and Related Programs Act, 1994 (Public Law 103–87) relating to the Nonproliferation and Disarmament Fund, to the extent that such functions were delegated to the Secretary of State pursuant to the Presidential Memorandum Delegation of Authority dated April 21, 1994.

(9)[14] The function specified in section 5 of the United Nations Participation Act of 1945, as amended (22 U.S.C. 287c), relating to the implementation of United Nations arms embargoes, to the extent that such functions were delegated to the Secretary of State by Executive Order 12918 of May 26, 1994.

(11)[17] The functions specified in the Iran-Iraq Arms Non-Proliferation Act of 1992 (Public Law 102–484), to the extent that such functions were delegated to the Secretary of State pursuant to Presidential Memorandum Delegation of Authority dated September 27, 1994.

(12)[18] The functions conferred on the Secretary of State in Executive Order 12938 of November 14, 1994.

(13)[19] The functions conferred on the Secretary by the Chemical Weapons Convention Implementation Act of 1998 (as contained in Pub. L. 105–277).

(14)[19] The functions that, before the effective date described in section 1201 of the Foreign Affairs Reform and Restructuring Act of 1998 (as contained in Pub. L. 105-277) were vested in the United States Arms Control and Disarmament Agency, including any functions conferred on the Director or any officer of employee of that agency, and that, pursuant to the provisions of the Act (including amendments made by that Act), are now conferred on the Secretary.

(b) To the Under Secretary for Management:

(1) The function of consultation with the Administrator of USAID[20] under the Order with respect to maximum compatibility in the administration of the Foreign Service personnel system.

(2) The function conferred on the Secretary of State by section 514 of the Mutual Security Act of 1954 (22 U.S.C. 1766).

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[14] Department of State Delegation of Authority No. 145–10, June 10, 1994 (59 F.R. 33812), amended and restated paras. (6) and (8), and added new paras. (7) and (9).

[15] Department of State Delegation of Authority No. 145–10, June 10, 1994 (59 F.R. 33812) added para. (8).

[16] Department of State Delegation of Authority No. 145–13, May 16, 1996 (61 F.R. 25727), added reference to sec. 508.

[17] Department of State Delegation of Authority No. 145–11, October 24, 1994 (59 F.R. 54668) added para. (11).

[18] Department of State Delegation of Authority No. 145–12, July 30, 1998 (63 F.R. 46094) added para. (12).

[19] Department of State Delegation of Authority No. 145–16, July 21, 1999 (64 F.R. 41482) added paras. (13) and (14).

[20] Sec. 4 of Delegation of Authority of March 31, 1999 (neither numbered nor published), struck out "Director of IDCA" and inserted in lieu thereof "Administrator of USAID".

(c)[21] To the Under Secretary for Economic, Business and Agricultural Affairs, the functions conferred upon the Secretary of State by section 574 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (P.L. 104–107).

(d) To the Assistant Secretary for Economic and Business Affairs:

(1)[22] Those functions conferred upon the Secretary of State by sections 5(k) and 6(k) of the Export Administration Act of 1979 (50 U.S.C. App. 2404(k), 2405(k)) and the functions under sections 5(f)(4), 5(i), and 6(g) of such Act conferred upon the Secretary of State by section 1–102(b) of Executive Order 12214 of May 2, 1980, 45 F.R. 29783, relating to negotiations with other countries, subject to the concurrences required by the Department of State Circular 175 Procedure.

(2) Those functions conferred upon the President by section 601(b)(6) of the act.

(3) The function conferred upon the Secretary of State by section 3(b) of Executive Order 10900 of January 5, 1961 (26 F.R. 143) of insuring that all functions exercised under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1701 *et seq.*) are consistent with the foreign policy of the United States.

(4)[23] The functions conferred upon the Secretary of State by section 574 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (P.L. 104–107).

(e)[24] To the Assistant Secretary for International Organization Affairs:

Those functions conferred upon the President by chapter 3 of part I of the Act. The functions under sections 301(a), (d), and (e) of the Act shall be exercised in consultation with the Administrator of USAID insofar as they relate to international organizations and programs whose purpose is primarily developmental.

(f)[25] To the Assistant Secretaries:

Principal responsibility consistent with section 1–604 of the Order for concurrence of the Department of State, with the approval of the legal adviser and in accordance with the Circular 175

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[21] The State Department issued a series of delegations of authority in 1998 that were unnumbered, undated, and unpublished. These delegations will be cited as such, and numbered 1 through 4. Subsec. (c) was added by sec. 1(a) of Department of State Delegation of Authority issued in 1998, unnumbered, undated, unpublished #1. That delegation of authority also redesignated the existing subsecs. (c) through (f) as subsecs. (d) through (g).

[22] The amendments of July 15, 1980 (45 F.R. 51974) added all the functions listed under para. (1) except for those under sec. 5(k) of the Export Administration Act of 1979.

[23] Sec. (c) of Department of State Delegation of Authority issued in 1998, unnumbered, undated, unpublished #1 added para. (4) to subsec. (d).

[24] Redesignated from subsec. (d) by sec. 1(b) of Department of State Delegation of Authority issued in 1998, unnumbered, undated, unpublished #1.

Sec. 5 of Delegation of Authority of March 31, 1999 (neither numbered nor published), amended and restated subsec. (e), which formerly read as follows:

"Those functions conferred upon the President by sections 301(a), 301(b), 301(c), 301(e)(1), 301(e)(3), 302(a)(1) as it relates to the Presidential certifications concerning the United Nations Relief and Works Agency 302(a)(3), and 305 of the Act.".

[25] Sec. 6 of Delegation of Authority of March 31, 1999 (neither numbered nor published), amended and restated subsec. (f), as redesignated by Department of State Delegation of Authority, issued in 1998, undated, unnumbered, unpublished #1. Subsec. (f) formerly read as follows:

"Principal responsibility consistent with section 1–604 of the order for concurrence of the Department of State, with the approval of the legal adviser and in accordance with the Circular 175 Procedure, in the negotiation, conclusion and termination of international agreements relevant to their respective areas of responsibility by IDCA and its component agencies pursuant to international agreement authorities conferred upon IDCA and its component agencies by statute, reorganization plan, Executive Order, or delegation of authority.".

Procedure, in the negotiation, conclusion, and termination of international agreements relevant to their respective areas of responsibility by USAID pursuant to international agreement authorities conferred upon USAID by statute, Executive Order, delegation of authority, or otherwise.

(g)[26] To the legal adviser:

(1) Those functions conferred upon the President by sections 601(b)(3), 601(b)(4), and 620(e)(2) of the act.

(2) Responsibility for insuring compliance with the Case Act (1 U.S.C. 112b) and applicable regulations and procedures, including the Circular 175 Procedure, with respect to international agreements.

(h)[27] To the Assistant Secretary for International Narcotics and Law Enforcement Affairs:[28]

(1) Those functions conferred upon the President by sections 481 and 487[29] of the act, together with all those authorities contained in the act, to the extent necessary or appropriate to accomplish the purpose of sections 481 and 487[29] of the act: *Provided,* That Department of State procurement for the International Narcotics Control Program shall be carried out in accordance with Department of State Acquisition Regulations (48 CFR Chapter 6).[30]

(2)[31] The functions of negotiating, concluding and terminating international agreements relating to international narcotics control and anticrime[32] programs subject to the concurrences required by the Circular 175 Procedure.

(h) * * * [Revoked—1999][33]

(i)[34] To the Director of the Office for Combatting Terrorism:

Those functions conferred upon the President by Chapter 8 of Part II of the act, together with all those authorities contained in

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[26] Redesignated from subsec. (f) by sec. 1(b) of Department of State Delegation of Authority issued in 1998, unnumbered, undated, unpublished #1.

[27] Sec. 7(a) of Delegation of Authority of March 31, 1999 (neither numbered nor published), redesignated this former subsec. (g) as subsec. (h).

[28] Department of State Public Notice 2841 (63 F.R. 33754) struck out "Matters" and inserted in lieu thereof "Law Enforcement Affairs". Sec. 7(b) of Delegation of Authority of March 31, 1999 (neither numbered nor published), made the same amendment.

[29] Department of State Public Notice 2841 (63 F.R. 33754) struck out "section 481" and inserted in lieu thereof "sections 481 and 487".

[30] Department of State Public Notice 2841 (63 F.R. 33754) struck out "Procurement Regulations (41 CFR Chapter 6)" and inserted in lieu thereof "Acquisition Regulations (48 CFR Chapter 6)".

[31] Sec. 7(c) and (d) of Delegation of Authority of March 31, 1999 (neither numbered nor published), struck out former para. (2) and redesignated para. (3) as para. (2). Former para. (2) read as follows:

"(2) Those functions conferred upon the Secretary of State by the determination of the President pursuant to section 604(a) of the act, dated October 18, 1961 (26 F.R. 10543), and by section 4 of the Executive Order 11223 of May 12, 1965 (30 F.R. 6635).".

[32] Department of State Public Notice 2841 (63 F.R. 33754) inserted "and anticrime" after "international narcotics control".

[33] Sec. 8(a) of Delegation of Authority of March 31, 1999 (neither numbered nor published), revoked subsec. (h), which had read as follows:

"(h) To the Coordinator for Refugee Affairs:

"Those functions conferred upon the President by section 495F and by Chapter 4 of part II of the act insofar as they relate to refugees, together with all those authorities contained in the act, to the extent necessary or appropriate to accomplish such purposes of section 495F and of chapter 4 of part II.".

[34] The amendments of February 4, 1984 (49 F.R. 7018) added subsec. (i). Such amendments further stated that "Actions within the scope of this delegation heretofore taken by the official designated in such delegation are hereby ratified and confirmed."

the act, to the extent necessary or appropriate to accomplish the purposes of Chapter 8 of Part II of the act.[35]

(j)[36] To the Assistant Secretary for Western Hemisphere Affairs:[37]

Those functions conferred upon the President by section 534(b)(3) of the Act, to be exercised in cooperation with the Administrator of the United States Agency for International Development,[38] together with authorities under other provisions in chapter 4 of part II or part III of the Act which may be necessary and appropriate[39] to implement such functions.

(k)[40] To the Assistant Secretary for Political-Military Affairs:

With respect to funds made available under the account for "Nonproliferation, Anti-terrorism, Demining and Related Programs" in annual foreign operations, export financing, and related programs appropriations acts, those functions under subsection (a) of this section insofar as such functions relate to demining assistance activities and export control assistance activities; except that this subsection shall not apply with respect to specific matters appear[41] to present particularly significant policy issues. The Under Secretary for Arms Control and International Security[42] may at any time exercise any of the functions described in this subsection.

(l)[43] To the Assistant Secretaries for International Organization Affairs, International Narcotics and Law Enforcement Affairs, the Coordinator for Counterterrorism, and the Assistant Secretary for Western Hemisphere Affairs, with regard to the functions delegated by subsections (e), (h), (i), and (j), respectively, the functions conferred upon the President by section 4 of Executive Order 11223 of May 12, 1965.

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[35] Sec. 9 of Delegation of Authority of March 31, 1999 (neither numbered nor published), struck ", except that such functions shall be exercised consistent with Section 573(d)(3) thereof" from this point.

[36] Subsec. (j) was added by State Department Delegation of Authority 145–5, January 22, 1988 (53 F.R. 5072).

State Department Delegation of Authority 145–17 of June 13, 2000 (65 F.R. 41745) provided the following:

"By virtue of the authority vested in me by Delegation of Authority No. 145–5 of January 22, 1988, 53 FR 5072, pursuant to Executive Order 12163 of September 29, 1979, 44 FR 56673, as amended, and the Foreign Assistance Act of 1961, as amended, 22 U.S.C. 2151 *et seq.*, I hereby delegate to the Assistant Administrator for Latin America and the Caribbean of the U.S. Agency for International Development (USAID) functions conferred on the President by section 534(b)(3)(A), (B), and (C) [of the Foreign Assistance Act of 1961, as amended] for the purpose of including law enforcement agencies and personnel in activities financed by USAID to strengthen the administration of justice. All such activities shall be implemented in coordination with the International Criminal Investigative Training Assistance Program of the U.S. Department of Justice.".

See also note 728 at sec. 534 of the Foreign Assistance Act of 1961, in *Legislation on Foreign Relations Through 2004*, vol. I–A.

[37] Sec. 10(a) of Delegation of Authority of March 31, 1999 (neither numbered nor published), struck out "Assistant Secretary for Inter-American Affairs" and inserted in lieu thereof "Assistant Secretary for Western Hemisphere Affairs".

[38] Sec. 10(b) of Delegation of Authority of March 31, 1999 (neither numbered nor published), struck out "Agency for International Development within the International Development Cooperation Agency" and inserted in lieu thereof "United States Agency for International Development".

[39] Sec. 10(c) of Delegation of Authority of March 31, 1999 (neither numbered nor published), struck out "necessary" and inserted in lieu thereof "necessary and appropriate".

[40] Added by Department of State Delegation of Authority issued in 1998, unnumbered, March 18, 1998, unpublished #3.

[41] Should probably read "to specific matters that appear".

[42] Department of State Delegation of Authority 145–16, July 21, 1999 (64 F.R. 41482) struck out "Affairs" after "Under Secretary for Arms Control and International Security".

[43] Sec. 11 of Delegation of Authority of March 31, 1999 (neither numbered nor published), added subsecs. (l), (m), (n), and (o).

(m)[43] To Assistant Secretaries of State, the Coordinator for East European Assistance, and the Special Advisor to the President and the Secretary of State on Assistance to the New Independent States, performing functions under the Act, the functions conferred upon the President by section 634B of the Act insofar as it relates to the performance of those functions.

(n)[43] To the Coordinator for East European Assistance and the Special Advisor to the President and the Secretary of State on Assistance to the New Independent States, the functions conferred upon the President by section 577 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (as included in P.L. 105–277) and section 201 of the Support for East European Democracy (SEED) Act of 1989, insofar as such functions relate to programs within their respective areas of responsibility.

(o)[43] To Assistant Secretaries implementing functions under the Act, and to the Coordinator for East European Assistance and the Special Advisor to the President and the Secretary of State on Assistance to the New Independent States those functions contained in the Act that may be necessary or appropriate to carry out such functions.

(p)[44] To the Global AIDS Coordinator:

(1) the functions and authority conferred upon the President by sections 202(c), 305, and 313 of the United States Leadership Against HIV/AIDS, tuberculosis, and Malaria Act of 2003 (Public Law 108–25), and by section 104A(e) of the Foreign Assistance Act of 1961, as amended by Pub.L. 108–25, to provide the specified reports to the Congress;

(2) the authority conferred upon the President by section 101 of Public Law 108(25 to establish a comprehensive, integrated, 5-year strategy to combat global HIV/AIDS and to submit to the appropriate congressional committees a report setting forth the strategy.

Section 2.[45] Functions Delegated to the Administrator of the United States Agency for International Development

(a) Exclusive of the functions otherwise delegated or reserved to the Secretary of State herein there are hereby delegated to the Administrator of the United States Agency for International Development (hereinafter referred to as the Administrator):

(1) the functions conferred upon the President by part I of the Act (including chapter 4 of part II thereof), together with all those functions contained in the Act that may be necessary or appropriate to carry out such functions;

(2) the functions conferred upon the President by section 653 of the Act insofar as such functions relate to chapters 1, 10, and 11 of part I of the Act and funds appropriated under the heading "Assistance for Eastern Europe and the Baltic States";

(3)(A) the functions conferred upon the President by—

(i) sections 301(a) and 307 of the FREEDOM Support Act, except insofar as provided otherwise in section 2(b) of E.O. 12884;

[44] Delegation of Authority No. 145–18 (July 30, 2004; 69 F.R. 45880) added subsec. (p).

[45] Sec. 12 of Delegation of Authority of March 31, 1999 (neither numbered nor published), amended and restated sec. 2. See notes at sec. 3.

(ii) sections 498 and 498C(b)(2) of the Act;

(iii) paragraph (3) of section 498A(c) of the Act and the requirement to make reports under that section regarding determinations under that paragraph;

(iv) subsection (d) under the heading "Assistance for the New Independent States of the Former Soviet Union" contained in title II of Public Law 102–391; and

(v) section 592 of Public Law 102–391, except to the extent otherwise provided in section 5(b) of E.O. 12884.

(B) such functions shall be exercised subject to the authority of the Coordinator under section 102(a) of the FREEDOM Support Act or otherwise;

(4) the function conferred upon the President by the third proviso under the heading "Development Assistance" contained in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (as contained in Public Law 105–277) insofar as such functions relate to part I (including chapter 4 of part II) of the Act, excluding section 129 thereof relating to technical assistance to foreign governments and chapter 3 thereof;

(5) the functions conferred upon the President by section 518 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (as contained in Public Law 105–277), insofar as such functions relate to part I (including chapter 4 of part II) of the Act, excluding section 129 thereof relating to technical assistance to foreign governments and chapter 3 thereof;

(6) the functions conferred upon the President by section 577 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (as contained in Public Law 105–277), insofar as such functions relate to chapters 1 and 10 of part I, and chapter 4 of part II, of the Act;

(7) the functions conferred upon the President by section 591 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118), and the provisions of law referenced therein;

(8) the functions conferred upon the President by section 572 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461), which shall be exercised in consultation with the Secretary of State and the Director of the Office of Management and Budget;

(9) those functions conferred upon the Secretary of State by sections 4 and 7 of Executive Order 11269 of February 14, 1966, relating to the National Advisory Council on International Monetary and Financial Policies;

(10) the functions of negotiating, concluding, and terminating international agreements under part I of the Act (including chapter 4 of part II thereof), subject to the Department of State's Circular 175 procedure, with regard to programs administered by the United States Agency for International Development.

(b) The delegated functions under sections 491(b), 491(c), 627, 628, 630(3), and 666 of the Act shall be exercised in consultation with the Secretary of State.

(c) The delegated functions under section 534 of the Act (with the exception of those contained in subsection (b)(3)) shall be exercised in cooperation with the appropriate Assistant Secretaries of State.

Section 3.[46] Functions Delegated to Other Agencies.

To the heads of other agencies implementing functions under the Act, those functions contained in the Act that may be necessary or appropriate to carry out such functions.

Section 4.[47] Functions Reserved to the Secretary of State

There are hereby reserved to the Secretary of State:

(a) The functions conferred on the President by sections 239(f), 451, 462 of chapter 6, 502B, 505(b), 533(b), 614(b), 620(c), 620(e)(1), 620(f), 620(g), 620(q), and 620C(c) of the Act.

(b) The functions conferred upon the Secretary by section 101(b) and 622(c) (insofar as they concern economic assistance other than assistance under chapter 4 of part II) of the Act and sections 1522 and 1523 of the Foreign Affairs Reform and Restructuring Act of 1998.

(c) In keeping with the United States Agency for International Development's status as a distinct agency and recognizing that the Administrator is under the Secretary's direct authority and foreign policy guidance, the Secretary shall review the United States Agency for International Development's strategic plan and annual performance plan, annual budget submission and appeals, and allocations and significant (in terms of policy or money) reprogrammings of development and other economic assistance.

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[46] Sec. 13 of Delegation of Authority of March 31, 1999 (neither numbered nor published), redesignated sec. as sec. 4 and inserted a new sec. 3. The former sec. 2, amended and restated by sec. 12 of the same unpublished Delegation of Authority, had provided as follows:

"Section 2. Functions Delegated to Other Agencies

"(a) The functions conferred on the President by section 620(s) of the Act are hereby delegated to the Director of the United States International Development Cooperation Agency, who shall exercise such functions in consultation with the Under Secretary of State for Security Assistance, Science and Technology. The functions conferred on the President by section 534 of the Act, with the exception of those contained in subsection (b)(3), are hereby delegated to the Administrator of the Agency for International Development within the United States International Development Cooperation Agency, who shall exercise such functions in cooperation with the Assistant Secretary of State for Inter-American Affairs.

"(b) The functions conferred upon the President and upon the Secretary of State by section 1540 of the Department of Defense Authorization Act, 1985, (Pub. L. 98-525), not otherwise delegated herein, are hereby delegated to the Administrator of the Agency for International Development, who shall exercise such function in consultation with the Secretary of Defense and with the Under Secretary of State for Security Assistance, Science and Technology.".

[47] Sec. 13 of Delegation of Authority of March 31, 1999 (neither numbered nor published), redesignated sec. 3 as sec. 4, and sec. 4 as sec. 6.

Sec. 14 of that Delegation of Authority amended and restated the redesignated sec. 4. The section formerly read as follows:

"(a) The functions conferred on the President by sections 239(g), 502B(a)(2), 505(b), 533(b), 614(b), 620(c), 620(e)(1), 620(f), 620(g), 620(i), and 620(q) of the Act.

"(b) The functions of determining which are friendly nations within the meaning of section 107 of the Agricultural Trade Development and Assistance Act of 1954 for the purpose of negotiating and concluding agreements pursuant to the authority contained in section 3(a) of Executive Order 10900 of January 5, 1961.".

Previously, the amendments of July 15, 1980 (45 F.R. 51974) redesignated existing secs. 2 and 3 as secs. 3 and 4, respectively, and added a new sec. 2.

Section 5.[48] Allocation of Funds

There are hereby allocated to the Administrator the funds allocated to the Secretary of State by section 1–800(a) of the Order, except such funds as are appropriated for purposes of chapters 3 and 8 of part I and chapters 6 and 8 of part II of the Act, and funds appropriated under the heading "Nonproliferation, Anti-Terrorism, Demining and Related Programs".

Section 6.[49] General Provisions

(a) As used in this delegation of authority, the word "function" includes any duty, obligation, power, authority, responsibility, right, privilege, discretion, or activity.

(b) Any reference in this delegation of authority to any act, order, determination, delegation of authority, regulation, or procedure shall be deemed to be a reference to such act, order, determination, delegation of authority, regulation, or procedure as amended from time to time.

(c) Any reference in this delegation of authority to security assistance, shall be deemed to include all forms of security assistance, including assistance and training under part II of the act (including chapters 4 and 6 thereof), sales, exports, credits, and guaranties under the Arms Export Control Act, and naval vessel transfer as authorized by law.

(d) Notwithstanding any provision of this delegation of authority, the Secretary of State or the Deputy Secretary of State may at any time exercise any function delegated or reserved[50] by this delegation of authority.

(e) Any officer to whom functions are delegated[51] by this delegation of authority may, to the extent consistent with law:

(1) redelegate such functions and authorize their successive redelegation; and

(2) promulgate such rules and regulations as may be necessary to carry out such functions.

(f) State Department Delegation of Authority No. 104 of November 3, 1961 (26 F.R. 10608), as amended, is revoked.

(g) Except to the extent inconsistent with this delegation of authority, all delegations of authority, determinations, authorizations, regulations, rulings, certificates, orders, directives, contracts, agreements, and other actions made, issued, or entered into with respect to any function affected by this delegation of authority and not revoked, superseded, or otherwise made inapplicable before the effective date of this delegation of authority, shall continue in full force and effect until modified, amended, or terminated by appropriate authority.

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[48] Added by sec. 15 of Delegation of Authority of March 31, 1999 (neither numbered nor published).

[49] Sec. 13 of Delegation of Authority of March 31, 1999 (neither numbered nor published), redesignated sec. 4 as sec. 6. Previously, the amendments of July 15, 1980 (45 F.R. 51974) redesignated existing secs. 2 and 3 as secs. 3 and 4, respectively, and added a new sec. 2.

[50] The amendments of February 4, 1984 (49 F.R. 7018) added the words "or reserved".

[51] The words "to any officer of the Department of State" which previously appeared at this point, were struck out by the amendments of July 15, 1980 (45 F.R. 51974).

(h)[52] Any reference in this delegation of authority to any act, order, determination, delegation of authority, regulation, or procedure shall be deemed to apply to any[53] provision of law that is the same or substantially the same as such act, order, determination, delegation of authority, regulation, or procedure.

[52] Added by sec. 2 of Department of State Delegation of Authority issued in 1998, unnumbered, undated, unpublished #1.

[53] Sec. 16 of Delegation of Authority of March 31, 1999 (neither numbered nor published), struck out "hereafter enacted" after "apply to any".

c. International Development Cooperation Agency Delegation of Authority No. 1

International Development Cooperation Agency Delegation of Authority No. 1, October 1, 1979, 44 F.R. 57521; as amended by amendment of October 31, 1980, 45 F.R. 74090

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY: FOREIGN ECONOMIC ASSISTANCE

By virtue of the authority vested in me by the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2151 *et seq.*) (hereinafter referred to as the Act), title IV of the International Development Cooperation Act of 1979 (22 U.S.C. 3501 *et seq.*), Executive Order No. 12163 of September 29, 1979 entitled "Administration of Foreign Assistance and Related Functions" (hereinafter referred to as the Executive Order), and Reorganization Plan No. 2 of 1979 (44 F.R. 41185), it is ordered as follows:

NOTE.—The Foreign Affairs Reform and Restructuring Act of 1998, and within that Act the Foreign Affairs Agencies Consolidation Act of 1998 (division G, and within that, subdivision A, of Public Law 105–277; 112 Stat. 2681–761, 2681–765), abolished the U.S. Arms Control and Disarmament Agency, the U.S. Information Agency, and the U.S. International Development Cooperation Agency, and transferred the functions of these agencies to the Department of State; transferred certain functions of the Agency for International Development to the Department of State; and further reorganized the Department of State.

Sec. 1422 of Public Law 105–277 (5 U.S.C. app.; 22 U.S.C. 2381 note) provided that reorganization plans and delegations of authority related to the agencies listed above shall cease to be effective, including the Reorganization Plan No. 2 of 1979 (5 U.S.C. app.), certain sections of Executive Order 12163, this Delegation of Authority, except for sec. 1–6 (retained below), and sec. 3 of Executive Order 12884.

* * * * * * *

1–6. Functions Delegated to the Overseas Private Investment Corporation

1–601. Exclusive of the functions otherwise delegated, or reserved to the Director of IDCA herein, there are hereby delegated to the Overseas Private Investment Corporation:

(a) The functions under sections 621(b), 625(d)(1), 627, 628, 629(b), 630 and 635(d) of the Act insofar as such functions relate to the operations of the Overseas Private Investment Corporation, its activities, or personnel.

(b) The functions under section 237(a) of the Act, provided that such functions shall be exercised in consultation with the Director of IDCA.[1]

* * * * * * *

[1] Sec. 1421 of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–791) provides the following:

"Except as otherwise provided in this subdivision, any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to the United States International Development Cooperation Agency (IDCA) or to the Director or any other officer or employee of IDCA—

"* * * (2) insofar as such reference relates to any function or authority transferred under section 1412(b) [relating to Overseas Private Investment Corporation], shall be deemed to refer to the Administrator of the Agency for International Development".

d. Administration of Arms Export Controls

Executive Order 11958, January 18, 1977, 42 F.R. 4311,[1] as amended by Executive Order 12118, February 6, 1979, 44 F.R. 7939; Executive Order 12163, September 29, 1979, 44 F.R. 56673; Executive Order 12210, April 16, 1980, 45 F.R. 26313; Executive Order 12321, September 14, 1981, 46 F.R. 46109; Executive Order 12365, May 24, 1982, 47 F.R. 22933; Executive Order 12423, May 26, 1983, 48 F.R. 24025; Executive Order 12560, May 24, 1986, 51 F.R. 19160; Executive Order 12680, July 5, 1989, 54 F.R. 28996; Executive Order 12738, December 14, 1990, 55 F.R. 52033; Executive Order 13030, December 12, 1996, 61 F.R. 66187; Executive Order 13091, June 29, 1998, 63 F.R. 36153; Executive Order 13118, March 31, 1999, 64 F.R. 16595; and by Executive Order 13284, January 23, 2003, 68 F.R. 4075

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including the Arms Export Control Act, as amended (22 U.S.C. 2751 *et seq.*), and Section 301 of Title 3 of the United States Code, and as President of the United States of America, it is hereby ordered as follows:

Section 1. Delegation of Functions. The following functions conferred upon the President by the Arms Export Control Act (22 U.S.C. 2751 *et seq.*), hereinafter referred to as the Act and related legislation,[2] are delegated as follows:

(a) Those under Section 3 of the Act, with the exception of subsections (a)(1), (b), (c)(3), (c)(4), and (f),[3] to the Secretary of State: *Provided,* That the Secretary of State, in the implementation of the functions delegated to him under Sections 3 (a) and (d) of the Act, is authorized to find, in the case of a proposed transfer of a defense article or related training or other defense service by a foreign country or international organization not otherwise eligible under Section 3(a)(1) of the Act, whether the proposed transfer will strengthen the security of the United States and promote world peace.

(b) Those under Section 5 to the Secretary of State.

(c) Those under Section 21 of the Act, with the exception of the last sentence of subsection (d) and all of subsection (i), to the Secretary of Defense.[4]

(d) Those under Sections 22(a), 29, 30 and 30A of the Act to the Secretary of Defense.[5]

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[1] 22 U.S.C. 2751 note. This Executive Order superseded Executive Order 11501, Dec. 22, 1969 (34 F.R. 20169), as amended by Executive Order 11685, Sept. 27, 1972 (37 F.R. 20155).

[2] Sec. 5 of Executive Order 12680, July 5, 1989 (54 F.R. 28996) added "and related legislation" and new paras. (q) and (r).

[3] The reference to subsec. (f) was added by sec. 1–107 of Executive Order 12118, Feb. 6, 1979 (44 F.R. 7939).

[4] The reference to subsec. (i) was substituted in place of a reference to subsec. (h) by sec. 1–101 of Executive Order 12210, Apr. 16, 1980 (45 F.R. 26313).

[5] The reference to sec. 29 was added by sec. 2 of Executive Order 12321, Sept. 14, 1981 (46 F.R. 46109). The reference to sec. 30 was added by sec. 2 of Executive Order 12423, May 26, 1983 (48 F.R. 24025). The reference to sec. 30A was added by Executive Order 12560, May 24, 1986 (51 F.R. 19160).

(e)[6] Those under Section 23 of the Act and section 571 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167), to the Secretary of Defense, to be exercised in consultation with the Secretary of State and the Secretary of the Treasury, except that the President shall determine any rate of interest to be charged which is less than the market rate of interest.

(f)[7] Those under Sections 24, 27 and 28 of the Act to the Secretary of Defense. The Secretary of Defense, in implementing the functions delegated to him under Sections 24[8] and 27, shall consult with the Secretary of State and the Secretary of the Treasury.

(g) Those under Section 25 of the Act to the Secretary of State. The Secretary of Defense and the Director of the Arms Control and Disarmament Agency, within their respective areas of responsibility, shall assist the Secretary of State in the preparation of materials for presentation to the Congress under that Section.

(h) Those under Section 34 of the Act to the Secretary of State. To the extent the standards and criteria for credit and guaranty transactions are based upon national security and financial policies, the Secretary of State shall obtain the prior concurrence of the Secretary of Defense and the Secretary of the Treasury, respectively.

(i) Those under Section 35(a) of the Act to the Secretary of State.

(j) Those under Sections 36(a) and 36(b)(1) of the Act, except with respect to the certification of an emergency as provided by subsection (b)(1), to the Secretary of Defense. The Secretary of Defense, in the implementation of the functions delegated to him under Sections 36 (a) and (b)(1) shall consult with the Secretary of State, who shall, with respect to matters related to subparagraphs (D) and (I) of Section 36(b)(1), consult with the Director of the Arms Control and Disarmament Agency. With respect to those functions under Sections 36(a) (5) and (6), the Secretary of Defense shall consult with the Director of the Office of Management and Budget.

(k) Those under Sections 36 (c) and (d) of the Act to the Secretary of State. Those under Section 36(e) of the Act, as added by Public Law 104–164 with respect to transmittals pursuant to Section 36(b) to the Secretary of Defense, and with respect to transmittals pursuant to Section 36(c), to the Secretary of State.[9]

(l) Those under Section 38 of the Act:

(1) to the Secretary of State, except as otherwise provided in this subsection. Designations, including changes in designations, by the Secretary of State of items or categories of items

[6] Sec. 12 of Executive Order 12560, May 24, 1986 (51 F.R. 19160), amended and restated sec. 1(e). Previously, sec. 1(e) read as follows: "Those under Section 23 of the Act, with the exception of the function of certifying a rate of interest to the Congress as provided by paragraph (2) of that Section, to the Secretary of Defense.".

Sec. 6 of Executive Order 12680, July 5, 1989 (54 F.R. 28996), added reference to sec. 580 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989. Sec. 6 of Executive Order 12738, December 14, 1990 (55 F.R. 52033), updated reference to the current Foreign Operations, Export Financing, and Related Programs Appropriations Act.

[7] The delegation of functions under secs. 27 and 28 were added by sec. 1–102 of Executive Order 12210, Apr. 16, 1980 (45 F.R. 26313).

[8] Sec. 24 and the reference to the Secretary of the Treasury were added by sec. 13 of Executive Order 12560, May 24, 1986 (51 F.R. 19160).

[9] Sec. 1(a) of Executive Order 13091 (63 F.R. 36153) added this sentence.

which shall be considered as defense articles and defense services subject to export control under Section 38 shall have the concurrence of the Secretary of Defense. The authority to undertake activities to ensure compliance with established export conditions may be redelegated to the Secretary of Defense, or to the head of another department or agency as appropriate, which shall exercise such functions in consultation with the Secretary of State;[10]

(2) to the Attorney General,[11] to the extent they relate to the control of the import of defense articles and defense services. In carrying out such functions, the Attorney General[11] shall be guided by the views of the Secretary of State on matters affecting world peace, and the external security and foreign policy of the United States. Designations including changes in designations, by the Attorney General[11] of items or categories of items which shall be considered as defense articles and defense services subject to import control under Section 38 of the Act shall have the concurrence of the Secretary of State and the Secretary of Defense;

(3) to the Secretary of Commerce, to carry out on behalf of the Secretary of State, to the extent such functions involve Section 38(e) of the Act and are agreed to by the Secretary of State and the Secretary of Commerce.

(m) Those under Section 39(b) of the Act to the Secretary of State. In carrying out such functions, the Secretary of State shall consult with the Secretary of Defense as may be necessary to avoid interference in the application of Department of Defense regulations to sales made under Section 22 of the Act.

(n)[12] Those under Section 40A of the Act, as added by Public Law 104–164, to the Secretary of State insofar as they related to commercial exports licensed under the Act, and to the Secretary of Defense, insofar as they related to defense articles and defense services sold, leased, or transferred under the Foreign Military Sales Program.

(o)[13] Those under Section 40A of the Act, as added by the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132), to the Secretary of State.

(p) Those under Sections 42 (c) and (f) of the Act to the Secretary of Defense. The Secretary of Defense shall obtain concurrence of the Secretary of State and the Secretary of the Treasury on any determination proposed under the authority of Section 42(c) of the Act.[14]

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[10] Sec. 7 of Executive Order 12680, July 5, 1989 (54 F.R. 28996) added the second sentence.

[11] Sec. 13(a) of Executive Order 13284, January 23, 2003 (68 F.R. 4076), struck out "Secretary of the Treasury" and inserted in lieu thereof "Attorney General".

[12] Sec. 1(b) of Executive Order 13091 (63 F.R. 36153) redesignated former subsecs. (n) through (s) as subsecs. (o) through (t), and added a new subsec. (n). Previously, sec. 2 of Executive Order 13030, December 12, 1996 (61 F.R. 66187) added subsec. (n) and redesignated former subsecs. (n) through (r) as subsecs. (o) through (s), respectively.

[13] Added by sec. 2 of Executive Order 13030, December 12, 1996 (61 F.R. 66187); see previous note.

[14] This sentence was added by sec. 2(a) of Executive Order 12365, May 24, 1982 (47 F.R. 22933).

(q)[15] Those under Sections 52(b) and 53 of the Act to the Secretary of Defense.

(r)[16] Those under Sections 61 and 62(a) of the Act to the Secretary of Defense.

(s)[17] Those under Section 2(b)(6) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(6)) to the Secretary of State.

(t)[17] Those under Section 588(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461), to the Secretary of Defense, except with respect to the determination of an emergency as provided by subsection (b)(3). The Secretary of Defense in implementation of the functions delegated to him under section 588(b) shall consult with the Secretary of State.

Sec. 2. Coordination. (a) In addition to the specific provisions of Section 1 of this Order, the Secretary of State and the Secretary of Defense, in carrying out the functions delegated to them under this Order, shall consult with each other and with the heads of other departments and agencies, including the Secretary of the Treasury,[18] the Attorney General,[19] and the Chairman of the Export-Import Bank[20] on matters pertaining to their responsibilities.

(b) In accordance with Section 2(b) of the Act and under the directions of the President, the Secretary of State, taking into account other United States activities abroad, shall be responsible for the continuous supervision and general direction of sales and exports under the Act, including but not limited to, the negotiation, conclusion, and termination of international agreements, and determining whether there shall be a sale to a country and the amount thereof, and whether there shall be delivery or other performance under such sale or export, to the end that sales and exports are integrated with other United States activities and the foreign policy of the United States is best served thereby.

Sec. 3. Allocation of Funds. Funds appropriated to the President for carrying out the Act shall be deemed to be allocated to the Secretary of Defense without any further action of the President.

Sec. 4. Revocation. Executive Order No. 11501, as amended, is revoked; except that, to the extent consistent with this Order, all determinations, authorizations, regulations, rulings, certificates, orders, directives, contracts, agreements and other actions made, issued, taken or entered into under the provisions of Executive Order No. 11501, as amended, and not revoked, superseded or otherwise made inapplicable, shall continue in full force and effect until amended, modified or terminated by appropriate authority.

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[15] This subsec., redesignated by Executive Orders 13030 and 13091, was originally added by sec. 1–103 of Executive Order 12210, was amended and restated by sec. 2(b) of Executive Order 12365, May 24, 1982 (47 F.R. 22933). Previously, such subsec. delegated functions under sec. 43(c) of the Arms Export Control Act to the Secretary of Defense.

[16] Sec. 2(c) of Executive Order 12365, May 24, 1982 (47 F.R. 22933), added this subsec.

[17] Sec. 5(2) of Executive Order 12680, July 5, 1989 (54 F.R. 28996) added subsecs. (s) and (t), redesignated by Executive Order 13030 and further redesignated by Executive Order 13091.

[18] Sec. 10(8) of Executive Order 13118 (64 F.R. 16598) struck out "the Director of the United States International Development Cooperation Agency, the Director of the Arms Control and Disarmament Agency," following "Secretary of the Treasury". Previously, the reference to the Director of IDCA was substituted in lieu of a reference to the Administrator of AID by sec. 1–903(h)(4) of Executive Order 12163, Sept. 29, 1979 (44 F.R. 56679).

[19] Sec. 13(b) of Executive Order 13284, January 23, 2003 (68 F.R. 4076), inserted "the Attorney General,".

[20] Sec. 8 of Executive Order 12680, July 5, 1989 (54 F.R. 28996), added reference to the Chairman of the Export-Import Bank.

e. Overseas Private Investment Corporation

Executive Order 11579, January 19, 1971, 36 F.R. 969;[1] as amended by Executive Order 12107, December 28, 1978, 44 F.R. 1055; and by Executive Order 12163, September 29, 1979, 44 F.R. 56673

By virtue of the authority vested in me by the Foreign Assistance Act of 1961 (75 Stat. 424), as amended (hereinafter the "Act"), and section 301 of title 3 of the United States Code, and as President of the United States, it is ordered as follows:

Section 1. Transfer to Overseas Private Investment Corporation. All obligations, assets and related rights and responsibilities arising out of, or related to, predecessor programs and authorities similar to those provided for in section 234 (a), (b) and (d) of the Act are hereby transferred to the Overseas Private Investment Corporation (hereinafter the "Corporation").

Sec. 2. Delegation of functions. (a)[2] * * * [Revoked—1979]

(b) The function of prescribing regulations relating to the reinstatement or restoration of officers and employees of the Corporation to other government positions, when their appointment to a position in the Corporation was made from another government position and their separation from the Corporation was not made for cause, is hereby delegated to the Office of Personnel Management.[3]

Sec. 3. Allocation and transfer of funds. Funds made available under section 232 of the Act (repealed by section 105 of the Foreign Assistance Act of 1969) which are obligated but unexpended are hereby transferred to the Corporation.

Sec. 4. General provisions. (a) As used in this order, the words "function" or "functions" include any duty, obligation, power, authority, responsibility, right, privilege, discretion, or activity.

(b) The Corporation shall be deemed to be the successor of the Agency for International Development and the Administrator thereof, with respect to all functions vested in the Corporation pursuant to law.

(c) Except to the extent that they may be inconsistent with this order, all determinations, authorizations, regulations, rulings, certificates, orders, directives, contracts, agreements, and other actions made, issued, or entered into with respect to any function affected by this order and not revoked, superseded or otherwise made inapplicable before the date of this order, shall continue in full force and effect until amended, modified, or terminated by appropriate authority.

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[1] 22 U.S.C. 2191 note.

[2] Subsec. (a) was revoked by sec. 1–903(a)(2) of Executive Order 12163, Sept. 29, 1979 (44 F.R. 56673).

[3] Sec. 2–101 of Executive Order 12107 struck out "Civil Service Commission" and inserted in lieu thereof "Office of Personnel Management".

(d) Executive Order No. 10973 of November 3, 1961, as amended,[4] is hereby superseded insofar as any provision therein is in conflict with any provision herein.

(e) The provisions of this order shall become effective upon adoption by the Board of Directors of bylaws for the Corporation.

[4] Revoked by Executive Order 12163, Sept. 29, 1979 (44 F.R. 56673).

f. Performance of Functions Authorized by the Foreign Assistance Act of 1961, as Amended

Executive Order 11223, May 12, 1965, 30 F.R. 6635;[1] as amended by Executive Order 12163, September 29, 1979, 44 F.R. 56673; Executive Order 12178, December 10, 1979, 44 F.R. 71807; and by Executive Order 13118, March 31, 1999, 64 F.R. 16595

By virtue of the authority vested in me by section 633 of the Foreign Assistance Act of 1961, as amended, 75 Stat. 454 (22 U.S.C. 2393), it is hereby determined that, to the extent hereinafter indicated, the performance of functions authorized by that Act,[2] as amended, and any predecessor legislation, without regard to the laws specified in the numbered subdivisions of sections 1 and 2 of this order and without regard to consideration as specified in sections 3 and 4 of this order will further the purposes of the Foreign Assistance Act of 1961, as amended:

Section 1. With respect to functions authorized by the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2151 et seq.), and any predecessor legislation except those functions exercised by the Department of Defense under authority of sections 621 and 623 of the Foreign Assistance Act of 1961 (22 U.S.C. 2381 and 2383):

(1) The Act of March 26, 1934, 48 Stat. 500, as amended (15 U.S.C. 616a).

(2) Section 3648 of the Revised Statutes, as amended, 60 Stat. 809 (31 U.S.C. 529).

(3) Section 305 of the Federal Property and Administrative Services Act of 1949, 63 Stat. 396, as amended (41 U.S.C. 255).

(4) Section 3709 of the Revised Statutes, as amended (41 U.S.C. 5).

(5) Section 3710 of the Revised Statutes (41 U.S.C. 8).

(6) Section 2 of title III of the Act of March 3, 1933, 47 Stat. 1520 (41 U.S.C. 10a).

(7) Section 3735 of the Revised Statutes (41 U.S.C. 13).

(8) Section 304(c) of the Federal Property and Administrative Services Act of 1949, as added by the Act of October 31, 1951, 65 Stat. 700 (41 U.S.C. 254(c)), but only with respect to contracts entered into with foreign governments or agencies thereof for the rendering of services to the United States or an agency thereof within the continental limits of the United States.

(9) Section 901(a) of the Merchant Marine Act, 1936, 49 Stat. 2015, as amended (46 U.S.C. 1241(a)).

Sec. 2. With respect to purchases authorized to be made outside the limits of the United States or the District of Columbia under

[1] 22 U.S.C. 2393 note.

[2] Sec. 1–903(d) of Executive Order 12163 provided that the reference in this Executive Order "to 'the performance of functions authorized by this Act' shall be deemed to include the performance of functions authorized by sec. 403 of the IDC Act of 1979." Such sec. 403 of the International Development Cooperation Act of 1979 specified the functions of the Institute for Scientific and Technological Cooperation.

the Foreign Assistance Act of 1961, as amended, and any predecessor legislation:

(1) Section 2276(a) of Title 10 of the United States Code.

(2) Section 2313(b) of Title 10 of the United States Code.

(3) Section 304(c) of the Federal Property and Administrative Services Act of 1949, as added by the Act of October 31, 1951, 65 Stat. 700 (41 U.S.C. 254(c)).

(4) Section 1301 of the Second War Powers Act, 1942, 56 Stat. 185 (50 U.S.C. App. 643), as extended by the provisions of the Act of June 30, 1953, 67 Stat. 120.

(5) Section 3(b) of the Act of August 28, 1958, 72 Stat. 972 (50 U.S.C. 1433(b)), but only with respect to contracts in which the inclusion of the clause required by section 3(b), or the compliance with that clause, if included in a contract, is deemed by the executive or military department concerned to be impracticable.

Sec. 3. With respect to cost-type contracts heretofore or hereafter made with non-profit institutions under which no fee is charged or paid, amendments and modifications of such contracts may be made with or without consideration and may be utilized to accomplish the same things as any original contract could have accomplished, irrespective of the time or circumstances of the making, or the form of the contract amended or modified, or of the amending or modifying contract and irrespective of rights which may have accrued under the contract or the amendments or modifications thereof.

Sec. 4. With respect to contracts heretofore or hereafter made, other than those described in section 3 of this order, amendments and modifications of such contracts may be made with or without consideration and may be utilized to accomplish the same things as any original contract could have accomplished, irrespective of the time or circumstances of the making, or the form of the contract amended or modified, or of the amending or modifying contract, and irrespective of rights which may have accrued under the contract or the amendments or modifications thereof, if the Secretary of State or the Administrator of the United States Agency for International Development (with respect to functions vested in or delegated to the Administrator)[3] determines in each case that such action is necessary to protect the foreign policy interests of the United States.

Sec. 5. Executive Order No. 10784 of October 1, 1958, and Executive Order No. 10845 of October 12, 1959, are hereby superseded.

Sec. 6.[4] I determine it to be in furtherance of the purposes of the Foreign Assistance Act of 1961, as amended, and in the national security interest of the United States that the functions authorized by chapter 7 of Part II of that Act, relating to air base construction

[3] Sec. 10(10) of Executive Order 13118 (64 F.R. 16599) struck out "Director of the United States International Development Cooperation Agency (with respect to functions vested in or delegated to the Director)" and inserted in lieu thereof "Administrator of the United States Agency for International Development (with respect to functions vested in or delegated to the Administrator)". The reference to the Director of IDCA was first added by sec. 1–903(b)(5) of Executive Order 12163, Sept. 29, 1979 (44 F.R. 56673).

[4] Sec. 6 was added by Executive Order 12178, Dec. 10, 1979 (44 F.R. 71807).

in Israel, be performed without regard to the following additional specified provisions of law:

(1) Title IX of the Federal Property and Administration Services Act of 1949, as amended (40 U.S.C. 541–544);

(2) Section 612 of the Military Construction Authorization Act, 1967, as amended (31 U.S.C. 723a);

(3) Section 719 of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2168); and

(4) Section 111 of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 759).

g. Foreign Disaster Assistance

Executive Order 12966, July 14, 1995, 60 F.R. 36949, 10 U.S.C. 404 note

By the authority vested in me as President by the Constitution and the laws of the United states of America, including the National Defense Authorization Act for Fiscal Year 1995, Public Law 103–337 (the "Act") and section 301 of title 3, United States Code, it is hereby ordered as follows:

Section 1. This order governs the implementation of section 404 of title 10, United States Code, as added by amendment set forth in section 1412(a) of the Act. Pursuant to 10 U.S.C. 404(a), the Secretary of Defense is hereby directed to provide disaster assistance outside the United States to respond to manmade or natural disasters when the Secretary of Defense determines that such assistance is necessary to prevent loss of lives. The Secretary of Defense shall exercise the notification functions required of the President by 10 U.S.C. 404(c).

Sec. 2. The Secretary of Defense shall provide disaster assistance only:

(a) at the direction of the President; or

(b) with the concurrence of the Secretary of State; or

(c) in emergency situations in order to save human lives, where there is not sufficient time to seek the prior initial concurrence of the Secretary of State, in which case the Secretary of Defense shall advise, and seek the concurrence of, the Secretary of State as soon as practicable thereafter. For the purpose of section 2(b) of this order, only the Secretary of State, or the Deputy Secretary of State, or persons acting in those capacities, shall have the authority to withhold concurrence. Concurrence of the Secretary of State is not required for the execution of military operations undertaken pursuant to, and consistent with, assistance provided in accordance with parts (b) and (c) of this section, or with respect to matters relating to the internal financial processes of the Department of Defense.

Sec. 3. In providing assistance covered by this order, the Secretary of Defense shall consult with the Administrator of the Agency for International Development, in the Administrator's capacity as the President's Special Coordinator for International Disaster Assistance.

Sec. 4. This order does not affect any activity or program authorized under any other provision of law, except that referred to in section 1 of this order.

Sec. 5. This order is effective at 12:01 a.m., e.d.t. on July 15, 1995.

h. Global Disaster Information Network

Executive Order 13151, April 27, 2000, 65 F.R. 25619, 42 U.S.C. 5195 note

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to establish a Global Disaster Information Network to use information technology more effectively to reduce loss of life and property from natural and man-made disasters, it is hereby ordered as follows:

Section 1. *Policy.* (a) It is the policy of this Administration to use information technology more effectively to coordinate the Federal Government's collection and dissemination of information to appropriate response agencies and State governments to prepare for and respond to natural and man-made disasters (disasters). As a result of changing population demographics in our coastal, rural, and urban areas over the past decades, the loss of life and property (losses) from disasters has nearly doubled. One of the ways the Federal Government can reduce these losses is to use technology more effectively to coordinate its collection and dissemination (hereafter referred to collectively as "provision") of information which can be used in both planning for and recovering from disasters. While many agencies provide disaster-related information, they may not always provide it in a coordinated manner. To improve the provision of disaster-related information, the agencies shall, as set out in this order, use information technology to coordinate the Federal Government's provision of information to prepare for, respond to, and recover from domestic disasters.

(b) It is also the policy of this Administration to use information technology and existing channels of disaster assistance to improve the Federal Government's provision of information that could be helpful to foreign governments preparing for or responding to foreign disasters. Currently, the United States Government provides disaster-related information to foreign governments and relief organizations on humanitarian grounds at the request of foreign governments and where appropriate. This information is supplied by Federal agencies on an ad hoc basis. To increase the effectiveness of our response to foreign disasters, agencies shall, where appropriate, use information technology to coordinate the Federal Government's provision of disaster-related information to foreign governments.

(c) To carry out the policies in this order, there is established the Global Disaster Information Network (Network). The Network is defined as the coordinated effort by Federal agencies to develop a strategy and to use existing technical infrastructure, to the extent permitted by law and subject to the availability of appropriations and under the guidance of the Interagency Coordinating Committee and the Committee Support Office, to make more effective

use of information technology to assist our Government, and foreign governments where appropriate, by providing disaster-related information to prepare for and respond to disasters.

Sec. 2. *Establishment.* (a) There is established an Interagency Coordinating Committee (Committee) to provide leadership and oversight for the development of the Network. The Office of the Vice President, the Department of Commerce through the National Oceanic and Atmospheric Administration, and the Department of State, respectively, shall designate a representative to serve as Co-chairpersons of the Committee. The Committee membership shall comprise representatives from the following departments and agencies:

(1) Department of State;
(2) Department of Defense;
(3) Department of the Interior;
(4) Department of Agriculture;
(5) Department of Commerce;
(6) Department of Transportation;
(7) Department of Energy;
(8) Office of Management and Budget;
(9) Environmental Protection Agency;
(10) National Aeronautics and Space Administration;
(11) United States Agency for International Development;
(12) Federal Emergency Management Agency; and
(13) Central Intelligence Agency.

At the discretion of the Co-chairpersons of the Committee, other agencies may be added to the Committee membership. The Committee shall include an Executive Secretary to effect coordination between the Co-chairpersons of the Committee and the Committee Support Office.

(b) There is established a Committee Support Office (Support Office) to assist the Committee by developing plans and projects that would further the creation of the Network. The Support Office shall, at the request of the Co-chairpersons of the Committee, carry out tasks taken on by the Committee.

(c) The National Oceanic and Atmospheric Administration shall provide funding and administrative support for the Committee and the Support Office. To the extent permitted by law, agencies may provide support to the Committee and the Support Office to assist them in their work.

Sec. 3. *Responsibilities.* (a) The Committee shall:

(1) serve as the United States Government's single entity for all matters, both national and international, pertaining to the development and establishment of the Network;

(2) provide leadership and high-level coordination of Network activities;

(3) provide guidance for the development of Network strategies, goals, objectives, policies, and legislation;

(4) represent and advocate Network goals, objectives, and processes to their respective agencies and departments;

(5) provide manpower and material support for Network development activities;

(6) develop, delegate, and monitor interagency opportunities and ideas supporting the development of the Network; and

(7) provide reports, through the Co-chairpersons of the Committee, to the President as requested or at least annually.

(b) The Support Office shall:

(1) provide management and administrative support for the Committee;

(2) develop Network strategies, goals, objectives, policies, plans, and legislation in accordance with guidance provided by the Committee;

(3) consult with agencies, States, nongovernment organizations, and international counterparts in developing Network development tasks;

(4) develop and make recommendations concerning Network activities to the agencies as approved by the Committee; and

(5) participate in projects that promote the goals and objectives of the Network.

Sec. 4. *Implementation.* (a) The Committee, with the assistance of the Support Office, shall address national and international issues associated with the development of the Network within the context of:

(1) promoting the United States as an example and leader in the development and dissemination of disaster information, both domestically and abroad, and, to this end, seeking cooperation with foreign governments and international organizations;

(2) striving to include all appropriate stakeholders in the development of the Network; and

(3) facilitating the creation of a framework that involves public and private stakeholders in a partnership for sustained operations of the Network.

(b) Intelligence activities, as determined by the Director of the Central Intelligence Agency, as well as national security-related activities of the Department of Defense and of the Department of Energy, are exempt from compliance with this order.

Sec. 5. *Tribal Governments.* This order does not impose any requirements on tribal governments.

Sec. 6. *Judicial Review.* This order does not create any right or benefit, substantive or procedural, enforceable by law, by a party against the United States, its officers, its employees, or any other person.

(i) Assigning Foreign Affairs Functions and Implementing the Enterprise for the Americas Initiative and the Tropical Forest Conservation Act

Executive Order 13345, July 8, 2004, 69 F.R. 41901, 7 U.S.C. 1738 note

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Agricultural Trade Development and Assistance Act of 1954 (ATDA Act), as amended, the Foreign Assistance Act of 1961 (Foreign Assistance Act), as amended, and section 301 of title 3, United States Code, it is hereby ordered as follows:

Section 1. *Functions to be Performed by the Secretary of the Treasury.* (a) The Secretary of the Treasury is hereby designated to perform the functions of the President under the following provisions of law:

(1) sections 603(b), 604(a), and 611 of the ATDA Act (7 U.S.C. 1738b(b), 1738c(a), and 1738j); and

(2) sections 703, 704(a), 805(b), 806(a), 807(a), 808(a), and 812 of the Foreign Assistance Act (22 U.S.C. 2430b, 2430c(a), 2431c(b), 2431d(a), 2431e(a), 2431f(a), and 2431j).

(b) The Secretary of the Treasury shall:

(1)(A) make determinations under the provisions of sections 703(b) and 805(b) of the Foreign Assistance Act in accordance with any recommendations received from the Secretary of State with respect to subsections 703(a)(1)–703(a)(4) and the corresponding recommendations under section 805(a)(1) of that Act; and

(B) make determinations under the provisions of section 805(b) of the Foreign Assistance Act in accordance with any recommendations from the Administrator of the United States Agency for International Development (USAID) with respect to section 803(5)(B) of that Act;

(2) exercise the functions under the provisions listed in section 1(a)(1) of this order in consultation with the Secretary of State and with the National Advisory Council on International Monetary and Financial Policies (Council) established by Executive Order 11269 of February 14, 1966;

(3) consult, as appropriate, with the Secretary of State, the Administrator of USAID, the Council, the Secretary of Agriculture, the Director of the Office of Management and Budget, the Administrator of the Environmental Protection Agency, the Chairman of the Council on Environmental Quality, the Director of the Office of National Drug Control Policy, and the Chairman of the Council of Economic Advisers in the performance of all other functions under the provisions listed in section 1(a) of this order.

Sec. 2. *Functions to be Performed by the Secretary of State.* (a) The Secretary of State is hereby designated to perform the functions of the President under sections 607 and 614 of the ATDA Act (7 U.S.C. 1738f and 1738m) and section 813(a) of the Foreign Assistance Act (22 U.S.C. 2431k).

(b) The Secretary of State shall consult, as appropriate, with the Secretary of the Treasury and the Administrator of USAID, in the performance of functions under the provisions listed in subsection 2(a) of this order.

(c) The Secretary of State shall consult, as appropriate, in the performance of functions under section 607 of the ATDA Act, with the Secretary of Agriculture, the Secretary of Commerce, the Administrator of the Environmental Protection Agency, the Chairman of the Council on Environmental Quality, and the heads of such other executive departments and agencies as the Secretary of State determines appropriate.

(d) The Secretary of State is hereby designated to receive advice or supplemental views on the President's behalf consistent with the following provisions of law:

(1) section 610(c)(1) of the ATDA Act (7 U.S.C. 1738i(c)(1)); and

(2) section 813(b) of the Foreign Assistance Act (22 U.S.C. 2431k).

Sec. 3. *Recommendation by USAID.* The Administrator of USAID shall make recommendations with respect to 803(5)(B) of the Foreign Assistance Act (22 U.S.C. 2431a(5)(B), in cooperation with the Secretary of Agriculture and the Secretary of State.

Sec. 4. *Government Appointees to the Enterprise for the Americas Board.* (a) Pursuant to section 610(b)(1)(A) of the ATDA Act (7 U.S.C. 1738i(b)(1)(A) and section 811(b)(1)(A) and (b)(2) of the Foreign Assistance Act (22 U.S.C. 2431i(b)(1)(A) and (b)(2)), the following officers or employees of the United States are hereby designated to serve as representatives on the Enterprise for the Americas Board:

(i) the designee of the Secretary of State, who shall be the chairperson of the Board;

(ii) the designee of the Secretary of the Treasury;

(iii) two designees of the Secretary of Agriculture, one of whom shall be an officer or employee of the United States Forest Service International Programs Office with experience in international forestry matters, and the other shall be an officer or employee of the Foreign Agricultural Service;

(iv) the designee of the Secretary of the Interior;

(v) the designee of the Administrator of the Environmental Protection Agency;

(vi) the designee of the Administrator of USAID, who shall be the vice chairperson of the Board; and

(vii) the designee of the Chairman of the Council on Environmental Quality.

(b) The Board shall permit the following officers or employees of the United States to attend and observe a Board meeting:

(i) a designee of the Secretary of Commerce; and

(ii) a designee of the head of any executive department or agency, if the meeting will relate to matters relevant to the activities of such executive department or agency.

(c) An officer of the United States listed in subsections 4(a) and 4(b) shall make a designation for purposes of those subsections in writing submitted to the Secretary of State and shall change any such designation in the same manner. The authority to make such a designation may not be delegated.

(d) The Secretary of State may, after consultation with the officers of the United States listed in subsection 4(b) and the Attorney General, as appropriate, establish such procedures as may be necessary to provide for the governance and administration of the Board.

Sec. 5. *Guidance for the Performance of Functions.* In performing functions under this order, officers of the United States:

(a) shall ensure that all actions taken by them are consistent with the President's constitutional authority to (i) conduct the foreign affairs of the United States, including the commencement, conduct, and termination of negotiations with foreign countries and international organizations, (ii) withhold information the disclosure of which could impair the foreign relations, the national security, the deliberative processes of the Executive, or the performance of the Executive's constitutional duties, (iii) recommend for congressional consideration such measures as the President may judge necessary or expedient, and (iv) supervise the unitary executive branch;

(b) may further assign functions assigned by this order to officers of any department or agency within the executive branch to the extent permitted by law except as provided in subsection 4(c) of this order and such further assignment shall be published in the Federal Register; and

(c) shall consult the Attorney General as appropriate in implementing this section.

Sec. 6. *Revocation of Executive Orders.* The following Executive Orders are hereby revoked:

(a) Executive Order 12757 of March 19, 1991;

(b) Executive Order 12823 of December 3, 1992;

(c) Executive Order 13028 of December 3, 1996; and

(d) Executive Order 13131 of July 22, 1999.

Sec. 7. *Judicial Review.* This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by a party against the United States, its departments, agencies, entities, officers, employees or agents, or any other person.

(j) Delegation of Certain Waiver, Determination, Certification, Recommendation, and Reporting Functions

Executive Order 13346, July 8, 2004, 69 F.R. 41905, 3 U.S.C. 301 note

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, it is hereby ordered as follows:

Section 1. The functions of the President in making certain waivers, determinations, certifications, recommendations, and reports to the Congress are assigned as follows:

(a) The Secretary of State is authorized to make waivers, determinations, certifications, and recommendations, and to undertake related reporting, as described in:

(i) Section 402(d)(1) of the Trade Act of 1974, as amended (19 U.S.C. 2432(d)(1)), with respect to the extension of Jackson-Vanik waivers;

(ii) Section 609 of Division A of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277) as continued in effect by section 612 of Division B of the Consolidated Appropriations Act, 2004 (Public Law 108–199) with respect to cooperation related to persons missing in action and prisoners of war; and

(iii) Section 102(a)(2) of the Arms Export Control Act, as amended (22 U.S.C. 2799aa–1(a)), with respect to any Presidential determination under section 102(a)(1) that is also the subject of a determination and certification by the President pursuant to section 102(a)(2).

(b) The United States Trade Representative shall submit the report relating to sub-Saharan Africa under section 106 of the African Growth and Opportunity Act (Public Law 106–200, title 1).

Sec. 2. The functions of the President in making certifications to the Congress consistent with the resolution of advice and consent to ratification of the Chemical Weapons Convention adopted by the Senate on April 24, 1997 (Resolution) are assigned as follows:

(a) The Secretary of State is authorized to make a certification consistent with section 2(7)(C)(i) of the Resolution with respect to the effectiveness and viability of the Australia Group.

(b) The Secretary of Commerce is authorized to make a certification consistent with section 2(9) of the Resolution with respect to the interests of certain firms in the United States.

Sec. 3. Executive Order 12163 of September 29, 1979, as amended, is further amended, in section 1–100(a), * * *[1]

Sec. 4. Executive Order 13277 of November 19, 2002, is amended in section 1(b)(3) by adding after the phrase "Section 2105(a)(1)" the terms "(A) and (C)".

[1] For amended text, see page 555.

Sec. 5. References in this order to provisions of any Act shall be deemed to include references to any provision of law that is the same or substantially the same as such provisions.

Sec. 6. In carrying out sections 1 and 2 of this order, officers of the United States shall ensure that all actions taken by them are consistent with the President's constitutional authority to: (a) conduct the foreign affairs of the United States; (b) withhold information the disclosure of which could impair the foreign relations, the national security, the deliberative processes of the Executive, or the performance of the Executive's constitutional duties; (c) recommend for congressional consideration such measures as the President may judge necessary and expedient; and (d) supervise the unitary executive branch.

Sec. 7. Nothing in this order shall be construed to impair or otherwise affect the functions of the Director of the Office of Management and Budget relating to budget, administrative, or legislative proposals.

Sec. 8. This order is intended only to improve the internal management of the executive branch and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by a party against the United States, its departments, agencies, entities, officers, employees or agents, or any other person.

3. Armed Forces Legislation

a. TITLE 10, UNITED STATES CODE

SUBTITLE A—GENERAL MILITARY LAW

PART I—ORGANIZATION AND GENERAL MILITARY POWERS

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CHAPTER 2—DEPARTMENT OF DEFENSE

* * * * * * *

§ 113.[1] Secretary of Defense * * *

(e)(1)[2] The Secretary shall include in his annual report to Congress under subsection (c)—

(A) a description of the major military missions and of the military force structure of the United States for the next fiscal year;

(B) an explanation of the relationship of those military missions to that force structure; and

(C) the justification for those military missions and that force structure.

(2) In preparing the matter referred to in paragraph (1), the Secretary shall take into consideration the content of the annual national security strategy report of the President under section 108 of the National Security Act of 1947 for the fiscal year concerned.[3]

* * * * * * *

[1] Sec. 113 was originally codified at sec. 133 of 10 U.S.C. The Department of Defense Reorganization Act of 1986 (Public Law 99–433; 100 Stat. 1074) redesignated sec. 133 of 10 U.S.C. as sec. 113 and modified the section title.

Sec. 1031(1) of Public Law 106–65 (113 Stat. 749) made sec. 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 (Public Law 104–66; 31 U.S.C. 1113 note), as amended, which provided that "each provision of law requiring the submittal to Congress (or any committee of the Congress) of any annual, semiannual, or other regular periodic report specified * * * shall cease to be effective, with respect to that requirement, May 15, 2000." inapplicable to this section. For Public Law 104–66 and other legislation on the repeal of reporting requirements, see *Legislation on Foreign Relations Through 2004*, vol. IV.

[2] Subsec. (e) was comprehensively amended by sec. 603 of the DOD Reorganization Act of 1986 (Public Law 99–433; 100 Stat. 1074).

[3] Sec. 1070(a)(1) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2855) struck out "section 104" and inserted in lieu thereof "section 108". For text of 108 of the National Security Act of 1947, 50 U.S.C. 404a, see *Legislation on Foreign Relations Through 2004*, vol. IV, sec. N.

(i)[4] (1)[5] The Secretary of Defense shall transmit to Congress each year a report that contains a comprehensive net assessment of the defense capabilities and programs of the armed forces of the United States and its allies as compared with those of their potential adversaries.[6]

(2)[5] Each such report shall—

(A) include a comparison of the defense capabilities and programs of the armed forces of the United state and its allies with the armed forces of potential adversaries of the United States and allies of the United States;

(B) include an examination of the trends experienced in those capabilities and programs during the period covered by the future-years defense program submitted to Congress during that year pursuant to section 221[7] the five years immediately preceding the year in which the report is transmitted and an examination of the expected trends in those capabilities and programs during of this title;

(C)[8] include a description of the means by which the Department of Defense will maintain the capability to reconstitute or expand the defense capabilities and programs of the armed forces of the United States on short notice to meet a resurgent or increased threat to the national security of the United States;

(D)[8] reflect, in the overall assessment and in the strategic and regional assessments, the defense capabilities and programs of the armed forces of the United States specified in the budget submitted to Congress under section 1105 of title 31 in the year in which the report is submitted and in the five-year defense program submitted in such year; and

(E)[8] identify the deficiencies in the defense capabilities of the armed forces of the United States in such budget and such five-year defense program.

(3)[5] The Secretary shall transmit to Congress the report required for each year under paragraph (1) at the same time that the President submits the budget to Congress under section 1105 of title 31

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[4] Sec. 1322(a)(1) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1671) struck out previous subsec. (i) and redesignated subsecs. (j) through (l) as (i) through (k), respectively. Former subsec. (i) was originally enacted by sec. 1105 of the DOD Authorization Act, 1983 (Public Law 97–252; 96 Stat. 739) as subsec. (h) of sec. 138 (now sec. 114); and was redesignated as a subsec. of sec. 113 by the DOD Reorganization Act of 1986 (Public Law 99–433).

Subsec. (i), redesignated from subsec. (j) by sec. 1322(a)(1) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1671), was added by sec. 1214 of the National Defense Authorization Act, 1988 and 1989 (Public Law 100–180; 101 Stat. 1157).

[5] Sec. 731 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 102 Stat. 2003), added the para. designation "(1)", and added new paras. (2) and (3).

[6] Sec. 731 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 102 Stat. 2003), struck out the following sentence at this point: "Each such report shall be transmitted in both a classified and an unclassified form.".

[7] Sec. 1503(a)(1) of the National Defense Authorization Act for Fiscal year 1996 (Public Law 104–106; 110 Stat. 510) struck out "the five years covered by the five-year defense program submitted to Congress during that year pursuant to section 114(g)" and inserted in lieu thereof "the period covered by the future-years defense program submitted to Congress during that year pursuant to section 221".

Previously amended by sec. 1622 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1604).

[8] Sec. 341 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1343) redesignated subparas. (C) and (D) as (D) and (E), respectively, and added a new subpara. (C).

in that year. Such report shall be transmitted in both classified and unclassified form.

(j)[9] (1) Not later than April 8 of each year, the Secretary of Defense shall submit to the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on Armed Services and the Committee on Appropriations of the[10] House of Representatives a report on the cost of stationing United States forces outside of the United States. Each such report shall include a detailed statement of the following:

(A) Costs incurred in the United States and costs incurred outside the United States in connection with the stationing of United States forces outside the United States.

(B) The costs incurred outside the United States in connection with operating, maintaining, and supporting United States forces outside the United States, including all direct and indirect expenditures of United States funds in connection with such stationing.

(C) The effect of such expenditures outside the United States on the balance of payments of the United States.

(2) Each report under this subsection shall be prepared in consultation with the Secretary of Commerce.

(3) In this subsection, the term "United States", when used in a geographic sense, includes the territories and possessions of the United States.

(k)[11] The Secretary of Defense, with the advice and assistance of the Chairman of the Joint Chiefs of Staff, shall provide annually to the Secretaries of the military departments and to the commanders of the combatant commands written guidelines to direct the effective detection and monitoring of all potential aerial and maritime threats to the national security of the United States. Those guidelines shall include guidance on the specific force levels and specific supporting resources to be made available for the period of time for which the guidelines are to be in effect.

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(m)[12] INFORMATION TO ACCOMPANY FUNDING REQUEST FOR CONTINGENCY OPERATION.—Whenever the President submits to Congress a request for appropriations for costs associated with a contingency operation that involves, or likely will involve, the deployment of more than 500 members of the armed forces, the Secretary of Defense shall submit to Congress a report on the objectives of the operation. The report shall include a discussion of the following:

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[9] Sec. 1(o)(1) of Public Law 100–370 (102 Stat. 850) added subsec. (j) as (k), redesignated as subsec. (j) by the National Defense Authorization Act of 1991 (Public Law 101–510; 104 Stat. 1671).

[10] Sec. 1502(a)(3) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat 502) struck out "Committees on Armed Services and Committees on Appropriations of the Senate and" and inserted in lieu thereof "Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on National Security and the Committee on Appropriations of the". Sec. 1067(1) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 774) subsequently struck out "Committee on National Security" and inserted in lieu thereof "Committee on Armed Services".

[11] Sec. 1101 of Public Law 100–456 (102 Stat. 2042) added subsec. (l), redesignated as subsec. (k) by the National Defense Authorization Act of 1991 (Public Law 101–510; 104 Stat. 1671).

[12] Added by sec. 1212(b) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2152).

(1) What clear and distinct objectives guide the activities of United States forces in the operation.

(2) What the President has identified on the basis of those objectives as the date, or the set of conditions, that defines the endpoint of the operation.

§ 114.[13] Annual authorization of appropriations * * *

(c)[14] (1)[15] The size of the Special Defense Acquisition Fund established pursuant to chapter 5 of the Arms Export Control Act (22 U.S.C. 2795 et seq.) may not exceed $1,070,000,000.[16]

(2)[15] (2) Notwithstanding section 37(a) of the Arms Export Control Act (22 U.S.C. 2777(a)), amounts received by the United States pursuant to subparagraph (A) of section 21(a)(1) of that Act (22 U.S.C. 2761(a)(1))—

(A) shall be credited to the Special Defense Acquisition Fund established pursuant to chapter 5 of that Act (22 U.S.C. 2795 et seq.), as authorized by section 51(b)(1) of that Act (22 U.S.C. 2795(b)(1)), but subject to the limitation in paragraph (1) and other applicable law; and

(B) to the extent not so credited, shall be deposited in the Treasury as miscellaneous receipts as provided in section 3302(b) of title 31.

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CHAPTER 3—GENERAL POWERS AND FUNCTIONS

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§ 123a.[17] Suspension of end-strength limitations in time of war or national emergency

(a) DURING WAR OR NATIONAL EMERGENCY.—If at the end of any fiscal year there is in effect a war or national emergency, the President may waive any statutory end strength with respect to that fiscal year. Any such waiver may be issued only for a statutory end strength that is prescribed by law before the waiver is issued.

(b) UPON TERMINATION OF WAR OR NATIONAL EMERGENCY.—Upon the termination of a war or national emergency with respect

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[13] Sec. 114 was originally codified at sec. 138 of 10 U.S.C. Public Law 99–433 (Department of Defense Reorganization Act of 1986) redesignated sec. 138 of 10 U.S.C. as sec. 114 and modified the section title.

[14] Subsec. (c) was originally enacted by sec. 108(b) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 96 Stat. 1519) and codified at subsec. (g) of sec. 138 (now 114). Public Law 99–433 redesignated subsec. (g) as subsec. (c).

[15] Sec. 1481(a) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1704) added para. designation (1) in subsec. (c) and added new para. (2).

[16] Earlier limits included program ceilings of $300,000,000 for fiscal year 1982; $600,000,000 for fiscal year 1983 and $900,000 for fiscal year 1984 and any fiscal year thereafter. Sec. 1403 of the Department of Defense Authorization Act, 1986 (Public Law 99–145; 99 Stat. 743), changed the amount of the program ceiling to $1,000,000,000. Sec. 1304(a) of Public Law 99–661 increased the ceiling to $1,070,000,000. For the text of chapter 5 of the Arms Export Control Act, see *Legislation on Foreign Relations Through 2004*, vol. I–A.

[17] Added by sec. 1483(b)(1) of Public Law 101–510 (104 Stat. 1715). Amended and restated by sec. 421(b) of Public Law 107–107 (115 Stat. 1076). Previously read as follows:

"If at the end of any fiscal year there is in effect a war or national emergency, the President may defer the effectiveness of any end-strength limitation with respect to that fiscal year prescribed by law for any military or civilian component of the armed forces or of the Department of Defense. Any such deferral may not extend beyond November 30 of the following fiscal year.".

to which the President has exercised the authority provided by subsection (a), the President may defer the effectiveness of any statutory end strength with respect to the fiscal year during which the termination occurs. Any such deferral may not extend beyond the last day of the sixth month beginning after the date of such termination.

(c) STATUTORY END STRENGTH.—In this section, the term 'statutory end strength' means any end-strength limitation with respect to a fiscal year that is prescribed by law for any military or civilian component of the armed forces or of the Department of Defense.

§ 123b.[18] Forces stationed abroad: limitation on number

(a) END-STRENGTH LIMITATION.—No funds appropriated to the Department of Defense may be used to support a strength level of members of the armed forces assigned to permanent duty ashore in nations outside the United States at the end of any fiscal year at a level in excess of 203,000.

(b) EXCEPTION FOR WARTIME.—Subsection (a) does not apply in the event of a declaration of war or an armed attack on any member nation of the North Atlantic Treaty Organization, Japan, the Republic of Korea, or any other ally of the United States.

(c) PRESIDENTIAL WAIVER.—The President may waive the operation of subsection (a) if the President declares an emergency. The President shall immediately notify Congress of any such waiver.

§ 124.[19] Detection and monitoring of aerial and maritime transit of illegal drugs: Department of Defense to be lead agency

(a) LEAD AGENCY.—(1)[20] The Department of Defense shall serve as the single lead agency of the Federal Government for the detection and monitoring of aerial and maritime transit of illegal drugs into the United States.

(2)[20] The responsibility conferred by paragraph (1) shall be carried out in support of the counter-drug activities of Federal, State, local, and foreign law enforcement agencies.

(b) PERFORMANCE OF DETECTION AND MONITORING FUNCTION.—(1) To carry out subsection (a), Department of Defense personnel may operate equipment of the Department to intercept a vessel or an aircraft detected outside the land area of the United States for the purposes of—

(A) identifying and communicating with that vessel or aircraft; and

(B) directing that vessel or aircraft to go to a location designated by appropriate civilian officials.

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[18] Added by 1312(a) of Public Law 103–337 (108 Stat. 2894). Subsec. (b) of that section provided the following:

"(b) EFFECTIVE DATE.—Section 123b of title 10, United States Code, as added by subsection (a), does not apply with respect to a fiscal year before fiscal year 1996.".

[19] Sec. 1202(a) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1563) added sec. 124.

See also Sec. 1043 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2492).

[20] Sec. 1088(b) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1485) added para. designation (1) and added new para. (2).

(2) In cases in which a vessel or an aircraft is detected outside the land area of the United States, Department of Defense personnel may begin or continue pursuit of that vessel or aircraft over the land area of the United States.

(c) UNITED STATES DEFINED.—In this section, the term "United States" means the land area of the several States and any territory, commonwealth, or possession of the United States.

* * * * * * *

§ 127a.[21] Operations for which funds are not provided in advance: funding mechanisms

(a) IN GENERAL.—(1) The Secretary of Defense shall use the procedures prescribed by this section with respect to any operation specified in paragraph (2) that involves—

(A) the deployment (other than for a training exercise) of elements of the Armed Forces for a purpose other than a purpose for which funds have been specifically provided in advance; or

(B) the provision of humanitarian assistance, disaster relief, or support for law enforcement (including immigration control) for which funds have not been specifically provided in advance.

(2) This section applies to—

(A) any operation the incremental cost of which is expected to exceed $50,000,000; and

(B) any other operation the expected incremental cost of which, when added to the expected incremental costs of other operations that are currently ongoing, is expected to result in a cumulative incremental cost of ongoing operations of the Department of Defense in excess of $100,000,000.

Any operation the incremental cost of which is expected not to exceed $10,000,000 shall be disregarded for the purposes of subparagraph (B).

(3) Whenever an operation to which this section applies is commenced or subsequently becomes covered by this section, the Secretary of Defense shall designate and identify that operation for the purposes of this section and shall promptly notify Congress of that designation (and of the identification of the operation).

(4) This section does not provide authority for the President or the Secretary of Defense to carry out any operation, but establishes mechanisms for the Department of Defense by which funds are provided for operations that the armed forces are required to carry out under some other authority.

(b) WAIVER OF REQUIREMENT TO REIMBURSE SUPPORT UNITS.—(1) The Secretary of Defense shall direct that, when a unit of the Armed Forces participating in an operation described in subsection (a) receives services from an element of the Department of Defense that operates through the Defense Business Operations Fund (or a successor fund), such unit of the Armed Forces may not be required to reimburse that element for the incremental costs incurred by

[21] Sec. 127a was amended and restated by sec. 1003(a)(1) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 415). It was originally added by sec. 1108(a)(1) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1751).

that element in providing such services, notwithstanding any other provision of law or any Government accounting practice.

(2) The amounts which but for paragraph (1) would be required to be reimbursed to an element of the Department of Defense (or a fund) shall be recorded as an expense attributable to the operation and shall be accounted for separately.

(c) TRANSFER AUTHORITY.—(1) Whenever there is an operation of the Department of Defense described in subsection (a), the Secretary of Defense may transfer amounts described in paragraph (3) to accounts from which incremental expenses for that operation were incurred in order to reimburse those accounts for those incremental expenses. Amounts so transferred shall be merged with and be available for the same purposes as the accounts to which transferred.

(2) The total amount that the Secretary of Defense may transfer under the authority of this section in any fiscal year is $200,000,000.

(3) Transfers under this subsection may only be made from amounts appropriated to the Department of Defense for any fiscal year that remain available for obligation, other than amounts within any operation and maintenance appropriation that are available for (A) an account (known as a budget activity 1 account) that is specified as being for operating forces, or (B) an account (known as a budget activity 2 account) that is specified as being for mobilization.

(4) The authority provided by this subsection is in addition to any other authority provided by law authorizing the transfer of amounts available to the Department of Defense. However, the Secretary may not use any such authority under another provision of law for a purpose described in paragraph (1) if there is authority available under this subsection for that purpose.

(5) The authority provided by this subsection to transfer amounts may not be used to provide authority for an activity that has been denied authorization by Congress.

(6) A transfer made from one account to another under the authority of this subsection shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(d)[22] * * *

(e) LIMITATIONS.—(1) The Secretary may not restore balances in the Defense Business Operations Fund through increases in rates charged by that fund in order to compensate for costs incurred and not reimbursed due to subsection (b).

(2) The Secretary may not restore balances in the Defense Business Operations Fund or any other fund or account through the use of unobligated amounts in an operation and maintenance appropriation that are available within that appropriation for (A) an account (known as a budget activity 1 account) that is specified as being for operating forces, or (B) an account (known as a budget activity 2 account) that is specified as being for mobilization.

[22] Sec. 1031(a)(3) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1596) struck out subsec. (d), which had required the Secretary of Defense to report to Congress with 45 days of his determining that an operation met the parameters stated in subsec. (a)(2).

(f) SUBMISSION OF REQUESTS FOR SUPPLEMENTAL APPROPRIATIONS.—It is the sense of Congress that whenever there is an operation described in subsection (a), the President should, not later than 90 days after the date on which notification is provided pursuant to subsection (a)(3), submit to Congress a request for the enactment of supplemental appropriations for the then-current fiscal year in order to provide funds to replenish the Defense Business Operations Fund or any other fund or account of the Department of Defense from which funds for the incremental expenses of that operation were derived under this section and should, as necessary, submit subsequent requests for the enactment of such appropriations.

(g) INCREMENTAL COSTS.—For purposes of this section, incremental costs of the Department of Defense with respect to an operation are the costs of the Department that are directly attributable to the operation (and would not have been incurred but for the operation). Incremental costs do not include the cost of property or services acquired by the Department that are paid for by a source outside the Department or out of funds contributed by such a source.

(h) RELATIONSHIP TO WAR POWERS RESOLUTION.—This section may not be construed as altering or superseding the War Powers Resolution. This section does not provide authority to conduct any military operation.

(i) GAO COMPLIANCE REVIEWS.—The Comptroller General of the United States shall from time to time, and when requested by a committee of Congress, conduct a review of the defense funding structure under this section to determine whether the Department of Defense is complying with the requirements and limitations of this section.

§ 127b.[23] Assistance in combating terrorism: rewards

(a) AUTHORITY.—The Secretary of Defense may pay a monetary amount, or provide a payment-in-kind, to a person as a reward for providing United States Government personnel with information or nonlethal assistance that is beneficial to—

(1) an operation or activity of the armed forces conducted outside the United States against international terrorism; or

(2) force protection of the armed forces.

(b) LIMITATION.—The amount or value of a reward provided under this section may not exceed $200,000.

(c) DELEGATION OF AUTHORITY.—(1) The authority of the Secretary of Defense under subsection (a) may be delegated only—

(A) to the Deputy Secretary of Defense and an Under Secretary of Defense, without further redelegation; and

(B) to the commander of a combatant command, but only for a reward in an amount or with a value not in excess of $50,000.

(2) A commander of a combatant command to whom authority to provide rewards under this section is delegated under paragraph (1) may further delegate that authority, but only for a reward in

[23] Sec. 1065(a) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2655) added sec. 127b.

an amount or with a value not in excess of $2,500, except that such a delegation may be made to the commander's deputy commander without regard to such limitation.

(d) COORDINATION.—(1) The Secretary of Defense shall prescribe policies and procedures for the offering and making of rewards under this section and otherwise for administering the authority under this section. Such polices and procedures shall be prescribed in consultation with the Secretary of State and the Attorney General and shall ensure that the making of a reward under this section does not duplicate or interfere with the payment of a reward authorized by the Secretary of State or the Attorney General.

(2) The Secretary of Defense shall consult with the Secretary of State regarding the making of any reward under this section in an amount or with a value in excess of $100,000.

(e) PERSONS NOT ELIGIBLE.—The following persons are not eligible to receive a reward under this section:

(1) A citizen of the United States.

(2) An officer or employee of the United States.

(3) An employee of a contractor of the United States.

(f) ANNUAL REPORT.—(1) Not later than December 1 of each year, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the administration of the rewards program under this section during the preceding fiscal year.

(2) Each report for a fiscal year under this subsection shall include the following:

(A) Information on the total amount expended during that fiscal year to carry out the rewards program under this section during that fiscal year.

(B) Specification of the amount, if any, expended during that fiscal year to publicize the availability of rewards under this section.

(C) With respect to each reward provided during that fiscal year—

(i) the amount or value of the reward and whether the reward was provided as a monetary payment or in some other form;

(ii) the recipient of the reward; and

(iii) a description of the information or assistance for which the reward was paid, together with an assessment of the significance and benefit of the information or assistance.

(3) The Secretary may submit the report in classified form if the Secretary determines that it is necessary to do so.

(g) DETERMINATIONS BY THE SECRETARY.—A determination by the Secretary under this section is final and conclusive and is not subject to judicial review.

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CHAPTER 6—COMBATANT COMMANDS

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§ 168.[24] Military-to-military contacts and comparable activities

(a) PROGRAM AUTHORITY.—The Secretary of Defense may conduct military-to-military contacts and comparable activities that are designed to encourage a democratic orientation of defense establishments and military forces of other countries.

(b) ADMINISTRATION.—The Secretary may provide funds appropriated for carrying out subsection (a) to the following officials for use as provided in subsection (c):

(1) The commander of a combatant command, upon the request of the commander.

(2) An officer designated by the Chairman of the Joint Chiefs of Staff, with respect to an area or areas not under the area of responsibility of a commander of a combatant command.

(3) The head of any Department of Defense component.

(c) AUTHORIZED ACTIVITIES.—An official provided funds under subsection (b) may use those funds for the following activities and expenses:

(1) The activities of traveling contact teams, including any transportation expense, translation services expense, or administrative expense that is related to such activities.

(2) The activities of military liaison teams.

(3) Exchanges of civilian or military personnel between the Department of Defense and defense ministries of foreign governments.

(4) Exchanges of military personnel between units of the armed forces and units of foreign armed forces.

(5) Seminars and conferences held primarily in a theater of operations.

(6) Distribution of publications primarily in a theater of operations.

(7) Personnel expenses for Department of Defense civilian and military personnel to the extent that those expenses relate to participation in an activity described in paragraph (3), (4), (5), or (6).

(8) Reimbursement of military personnel appropriations accounts for the pay and allowances paid to reserve component personnel for service while engaged in any activity referred to in another paragraph of this subsection.

(d) RELATIONSHIP TO OTHER FUNDING.—Any amount provided during any fiscal year to an official under subsection (b) for an activity or expense referred to in subsection (c) shall be in addition to amounts otherwise available for those activities and expenses for that fiscal year.

(e) LIMITATIONS.—(1) Funds may not be provided under this section for a fiscal year for any activity for which—

(A) funding was proposed in the budget submitted to Congress for that fiscal year pursuant to section 1105(a) of title 31; and

(B) Congress did not authorize appropriations.

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[24] Added by sec. 1316(a) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2898). See also sec. 1082 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2672; 10 U.S.C. 168 note).

(2) An activity may not be conducted under this section with a foreign country unless the Secretary of State approves the conduct of such activity in that foreign country.

(3) Funds may not be provided under this section for a fiscal year for any country that is not eligible in that fiscal year for assistance under chapter 5 of part II of the Foreign Assistance Act of 1961.

(4) Except for those activities specifically authorized under subsection (c), funds may not be used under this section for the provision of defense articles or defense services to any country or for assistance under chapter 5 of part II of the Foreign Assistance Act of 1961.

(f)[25] ACTIVE DUTY END STRENGTHS.—A member of a reserve component who is engaged in activities authorized under this section shall not be counted for purposes of the following personnel strength limitations:

(1) The end strength for active-duty personnel authorized pursuant to section 115(a)(1) of this title for the fiscal year in which the member carries out the activities referred to under this section.

(2) The authorized daily average for members in pay grades E–8 and E–9 under section 517 of this title for the calendar year in which the member carries out such activities.

(3) The authorized strengths for commissioned officers under section 523 of this title for the fiscal year in which the member carries out such activities.

(g)[25] MILITARY-TO-MILITARY CONTACTS DEFINED.—In this section, the term "military-to-military contacts" means contacts between members of the armed forces and members of foreign armed forces through activities described in subsection (c).

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CHAPTER 7—BOARDS, COUNCILS, AND COMMITTEES

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§ 182.[26] Center for Excellence in Disaster Management and Humanitarian Assistance

(a) ESTABLISHMENT.—The Secretary of Defense may operate a Center for Excellence in Disaster Management and Humanitarian Assistance (in this section referred to as the "Center").

(b) MISSIONS.—(1) The Center shall be used to provide and facilitate education, training, and research in civil-military operations,

[25] Sec. 416 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 289) redesignated subsec. (f) as subsec. (g) and added a new subsec. (f). Sec. 416(e) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1868) amended and restated subsec. (f).

[26] Added by sec. 382(a) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1709).

Sec. 8093 of the Department of Defense Appropriations Act, 2003 (Public Law 107–248; 116 Stat. 1558), provided the following:

"SEC. 8093. During the current fiscal year and hereafter, under regulations prescribed by the Secretary of Defense, the Center of Excellence for Disaster Management and Humanitarian Assistance may also pay, or authorize payment for, the expenses of providing or facilitating education and training for appropriate military and civilian personnel of foreign countries in disaster management, peace operations, and humanitarian assistance.

particularly operations that require international disaster management and humanitarian assistance and operations that require coordination between the Department of Defense and other agencies.

(2) The Center shall be used to make available high-quality disaster management and humanitarian assistance in response to disasters.

(3) The Center shall be used to provide and facilitate education, training, interagency coordination, and research on the following additional matters:

(A) Management of the consequences of nuclear, biological, and chemical events.

(B) Management of the consequences of terrorism.

(C) Appropriate roles for the reserve components in the management of such consequences and in disaster management and humanitarian assistance in response to natural disasters.

(D) Meeting requirements for information in connection with regional and global disasters, including the use of advanced communications technology as a virtual library.

(E) Tropical medicine, particularly in relation to the medical readiness requirements of the Department of Defense.

(4) The Center shall develop a repository of disaster risk indicators for the Asia-Pacific region.

(5) The Center shall perform such other missions as the Secretary of Defense may specify.

(c) JOINT OPERATION WITH EDUCATIONAL INSTITUTION AUTHORIZED.—The Secretary of Defense may enter into an agreement with appropriate officials of an institution of higher education to provide for joint operation of the Center. Any such agreement shall provide for the institution to furnish necessary administrative services for the Center, including administration and allocation of funds.

(d) ACCEPTANCE OF DONATIONS.—(1) Except as provided in paragraph (2), the Secretary of Defense may accept, on behalf of the Center, donations to be used to defray the costs of the Center or to enhance the operation of the Center. Such donations may be accepted from any agency of the Federal Government, any State or local government, any foreign government, any foundation or other charitable organization (including any that is organized or operates under the laws of a foreign country), or any other private source in the United States or a foreign country.

(2) The Secretary may not accept a donation under paragraph (1) if the acceptance of the donation would compromise or appear to compromise—

(A) the ability of the Department of Defense, any employee of the Department, or members of the armed forces, to carry out any responsibility or duty of the Department in a fair and objective manner; or

(B) the integrity of any program of the Department of Defense or of any person involved in such a program.

(3) The Secretary shall prescribe written guidance setting forth the criteria to be used in determining whether or not the acceptance of a foreign donation would have a result described in paragraph (2).

(4) Funds accepted by the Secretary under paragraph (1) as a donation on behalf of the Center shall be credited to appropriations

available to the Department of Defense for the Center. Funds so credited shall be merged with the appropriations to which credited and shall be available for the Center for the same purposes and the same period as the appropriations with which merged.

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CHAPTER 9—DEFENSE BUDGET MATTERS

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§ 223.[27] Ballistic missile defense programs: program elements

(a)[28] PROGRAM ELEMENTS SPECIFIED BY PRESIDENT.—In the budget justification materials submitted to Congress in support of the Department of Defense budget for any fiscal year (as submitted with the budget of the President under section 1105(a) of title 31), the amount requested for activities of the Missile Defense Agency[29] shall be set forth in accordance with such program elements as the President may specify.[30]

(b)[31] SEPARATE PROGRAM ELEMENTS FOR PROGRAMS ENTERING ENGINEERING AND MANUFACTURING DEVELOPMENT.—(1) The Secretary of Defense shall ensure that each ballistic missile defense program that enters engineering and manufacturing development is assigned a separate, dedicated program element.

(2) In this subsection, the term "engineering and manufacturing development" means the period in the course of an acquisition program during which the[32] primary objectives are to—

(A) translate the most promising design approach into a stable, interoperable, producible, supportable, and cost-effective design;

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[27] Codified by sec. 235 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 1953).

[28] Sec. 221(a)(1) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1419) inserted "BY PRESIDENT" in the subsection catchline.

[29] Sec. 225(b)(1)(A) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2486), struck out "Ballistic Missile Defense Organization" and inserted in lieu thereof "Missile Defense Agency".

[30] Sec. 221(a)(2) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1419) struck out "program elements governing functional areas as follows:" and inserted in lieu thereof "such program elements as the President may specify.". Sec. 221(a)(3) of that Act struck out paras. (1) through (6), which had referred to: (1) Technology; (2) Ballistic Missile Defense System; (3) Terminal Defense Segment; (4) Midcourse Defense Segment; (5) Boost Defense Segment; and (6) Sensors Segment.

Previously, sec. 232(a)(1) of Public Law 107–107 (115 Stat. 1037) struck out "in accordance with the following program elements:" and inserted in lieu thereof "in accordance with program elements governing functional areas as follows:". Sec. 232(a)(2) of that Act struck out paras. (1) through (12) that followed, and inserted in lieu thereof paras. (1) through (6). Former paras. (1) through (12) referred to: (1) the Patriot system; (2) Navy Area system; (3) Theater High-Altitude Area Defense system; (4) Navy Theater Wide system; (5) Medium Extended Air Defense System; (6) Joint Theater Missile Defense; (7) National Missile Defense; (8) Support Technologies; (9) Family of Systems Engineering and Integration; (10) Ballistic Missile Defense Technical Operations; (11) Threat and Countermeasures; and (12) International Cooperative Programs.

[31] Sec. 232(b) of Public Law 107–107 (115 Stat. 1037) amended and restated subsec. (b). It formerly read as follows:

"(b) TREATMENT OF MAJOR DEFENSE ACQUISITION PROGRAMS.—Amounts requested for Theater Missile Defense and National Missile Defense major defense acquisition programs shall be specified in individual, dedicated program elements, and amounts appropriated for those programs shall be available only for Ballistic Missile Defense activities.".

[32] Sec. 221(c)(1) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1419) struck out "means the development phase whose" and inserted in lieu thereof "means the period in the course of an acquisition program during which the".

(B) validate the manufacturing or production process; and

(C) demonstrate system capabilities through testing.

(c) MANAGEMENT AND SUPPORT.—The amount requested for a fiscal year for any program element specified for that fiscal year pursuant to subsec. (a)[33] shall include requests for the amounts necessary for the management and support of the programs, projects, and activities contained in that program element.

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§ 229.[34] Programs for combating terrorism: display of budget information

(a) SUBMISSION WITH ANNUAL BUDGET JUSTIFICATION DOCUMENTS.—The Secretary of Defense shall submit to Congress, as a part of the documentation that supports the President's annual budget for the Department of Defense, a consolidated budget justification display, in classified and unclassified form, that includes all programs and activities of the Department of Defense combating terrorism program.

(b) REQUIREMENTS FOR BUDGET DISPLAY.—The budget display under subsection (a) shall include—

(1) the amount requested, by appropriation and functional area, for each of the program elements, projects, and initiatives that support the Department of Defense combating terrorism program, with supporting narrative descriptions and rationale for the funding levels requested; and

(2) a summary, to the program element and project level of detail, of estimated expenditures for the current year, funds requested for the budget year, and budget estimates through the completion of the current future-years defense plan for the Department of Defense combating terrorism program.

(c) EXPLANATION OF INCONSISTENCIES.—As part of the budget display under subsection (a) for any fiscal year, the Secretary shall identify and explain—

(1) any inconsistencies between (A) the information submitted under subsection (b) for that fiscal year, and (B) the information provided to the Director of the Office of Management and Budget in support of the annual report of the President to Congress on funding for executive branch counterterrorism and antiterrorism programs and activities for that fiscal year in accordance with section 1051(b) of the National Defense Authorization Act for Fiscal Year 1998 (31 U.S.C. 1113 note); and

(2) any inconsistencies between (A) the execution, during the previous fiscal year and the current fiscal year, of programs and activities of the Department of Defense combating terrorism program, and (B) the funding and specification for such programs and activities for those fiscal years in the manner provided by Congress (both in statutes and in relevant legislative history).

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[33] Sec. 221(b) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1419) struck out "for each program element specified in subsection (a)" and inserted in lieu thereof "for a fiscal year for any program element specified for that fiscal year pursuant to subsec. (a)".

[34] Added by sec. 932(b)(1) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 727).

(d) SEMIANNUAL REPORTS ON OBLIGATIONS AND EXPENDITURES.—The Secretary shall submit to the congressional defense committees a semiannual report on the obligation and expenditure of funds for the Department of Defense combating terrorism program. Such reports shall be submitted not later than April 15 each year, with respect to the first half of a fiscal year, and not later than November 15 each year, with respect to the second half of a fiscal year. Each such report shall compare the amounts of those obligations and expenditures to the amounts authorized and appropriated for the Department of Defense combating terrorism program for that fiscal year, by budget activity, sub-budget activity, and program element or line item. The second report for a fiscal year shall show such information for the second half of the fiscal year and cumulatively for the whole fiscal year. The report shall be submitted in unclassified form, but may have a classified annex.

(e) DEPARTMENT OF DEFENSE COMBATING TERRORISM PROGRAM.—In this section, the term "Department of Defense combating terrorism program" means the programs, projects, and activities of the Department of Defense related to combating terrorism inside and outside the United States.

(f)[35] * * *

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CHAPTER 18—MILITARY SUPPORT FOR CIVILIAN LAW ENFORCEMENT AGENCIES

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§ 371.[36] Use of information collected during military operations

(a) The Secretary of Defense may, in accordance with other applicable law, provide to Federal, State, or local civilian law enforcement officials any information collected during the normal course of military training or operations that may be relevant to a violation of any Federal or State law within the jurisdiction of such officials.

(b) The needs of civilian law enforcement officials for information shall, to the maximum extent practicable, be taken into account in the planning and execution of military training or operations.

(c) The Secretary of Defense shall ensure, to the extent consistent with national security, that intelligence information held by the Department of Defense and relevant to drug interdiction or other civilian law enforcement matters is provided promptly to appropriate civilian law enforcement officials.

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[35] Sec. 1043(a) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1610) amended sec. 101(a) of 10 U.S.C. to define "congressional defense committees" as the Committee on Armed Services and the Committee on Appropriations of the Senate, and the Committee on Armed Services and Committees on Appropriations of the House of Representatives. Sec. 1043(b)(6) of that Act struck out subsec. (f) of this section, which defined congressional defense committees as those four committees.

[36] Sec. 1104 of Public Law 100–456 (102 Stat. 2042) substantially revised Chapter 8—Military Support for Civilian Law Enforcement Agencies. Secs. 371 through 380 were enacted by this sec. 1104.

§ 372.[36] Use of military equipment and facilities

(a)[37] IN GENERAL.—The Secretary of Defense may, in accordance with other applicable law, make available any equipment (including associated supplies or spare parts), base facility, or research facility of the Department of Defense to any Federal, State, or local civilian law enforcement official for law enforcement purposes.

(b)[37] EMERGENCIES INVOLVING CHEMICAL AND BIOLOGICAL AGENTS.—(1) In addition to equipment and facilities described in subsection (a), the Secretary may provide an item referred to in paragraph (2) to a Federal, State, or local law enforcement or emergency response agency to prepare for or respond to an emergency involving chemical or biological agents if the Secretary determines that the item is not reasonably available from another source. The requirement for a determination that an item is not reasonably available from another source does not apply to assistance provided under section 382 of this title pursuant to a request of the Attorney General for the assistance.[38]

(2) An item referred to in paragraph (1) is any material or expertise of the Department of Defense appropriate for use in preparing for or responding to an emergency involving chemical or biological agents, including the following:

(A) Training facilities.

(B) Sensors.

(C) Protective clothing.

(D) Antidotes.

§ 373.[36] Training and advising civilian law enforcement officials

The Secretary of Defense may, in accordance with other applicable law, make Department of Defense personnel available—

(1) to train Federal, State, and local civilian law enforcement officials in the operation and maintenance of equipment, including equipment made available under section 372 of this title; and

(2) to provide such law enforcement officials with expert advice relevant to the purposes of this chapter.

§ 374.[36, 39] Maintenance and operation of equipment

(a) The Secretary of Defense may, in accordance with other applicable law, make Department of Defense personnel available for the maintenance of equipment for Federal, State, and local civilian law enforcement officials, including equipment made available under section 372 of this title.

(b)(1) Subject to paragraph (2) and in accordance with other applicable law, the Secretary of Defense may, upon request from the head of a Federal law enforcement agency, make Department of

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[37] Sec. 378 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 284) added "(a) IN GENERAL.—" and added subsec. (b).

[38] Sec. 1416(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2723) added the last sentence to subsec. (b)(1).

[39] Sec. 8057(a) of Public Law 108–287 (118 Stat. 983; 10 U.S.C. 374 note) provided the following:

"SEC. 8057. (a) None of the funds available to the Department of Defense for any fiscal year for drug interdiction or counterdrug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.".

Defense personnel available to operate equipment (including equipment made available under section 372 of this title) with respect to—

(A) a criminal violation of a provision of law specified in paragraph (4)(A);[40]

(B) assistance that such agency is authorized to furnish to a State, local, or foreign government which is involved in the enforcement of similar laws; or

(C)[41] a foreign or domestic counter-terrorism operation; or

(D) a rendition of a suspected terrorist from a foreign country to the United States to stand trial.

(2) Department of Defense personnel made available to a civilian law enforcement agency under this subsection may operate equipment for the following purposes:

(A) Detection, monitoring, and communication of the movement of air and sea traffic.

(B)[42] Detection, monitoring, and communication of the movement of surface traffic outside of the geographic boundary of the United States and within the United States not to exceed 25 miles of the boundary if the initial detection occurred outside of the boundary.

(C)[42] Aerial reconnaissance.

(D)[42] Interception of vessels or aircraft detected outside the land area of the United States for the purposes of communicating with such vessels and aircraft to direct such vessels and aircraft to go to a location designated by appropriate civilian officials.

(E)[42] Operation of equipment to facilitate communications in connection with law enforcement programs specified in paragraph (4)(A).

(F)[42] Subject to joint approval by the Secretary of Defense[43] and the Attorney General (and the Secretary of State in the case of a law enforcement operation outside of the land area of the United States)—

(i) the transportation of civilian law enforcement personnel along with any other civilian or military personnel who are supporting, or conducting, a joint operation with civilian law enforcement personnel;[44]

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[40] Sec. 201 of the Emergency Supplemental Appropriations (division B of Public Law 105–277; 112 Stat. 2681–567) struck out "or" at the end of subpara. (A); replaced a period at the end of subpara. (B) with "; or"; and added new subparas. (C) and (D).

[41] Sec. 1066(a)(4)(A) of Public Law 106–65 (113 Stat. 770) amended the indentation of subparas. (C) and (D) to correspond with subparas. (A) and (B).

[42] Sec. 1042(1) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2492) redesignated subparas. (B) through (E) as (C) through (F) and added a new subpara. (B).

[43] Sec. 1210 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1566) inserted text from this point to close parentheses, in lieu of ", the Attorney General, and the Secretary of State, in connection with a law enforcement operation outside the land area of the United States".

[44] Sec. 201(3) of the Emergency Supplemental Appropriations (division B of Public Law 105–277; 112 Stat. 2681–567) inserted "along with any other civilian or military personnel who are supporting, or conducting, a joint operation with civilian law enforcement personnel;" after "the transportation of civilian law enforcement personnel"; and struck out "and" at the end of the clause. Sec. 1066(a)(4)(B) of Public Law 106–65 (113 Stat. 770) struck out a second semicolon at the end of clause (i).

(ii) the operation of a base of operations for civilian law enforcement and supporting personnel; and[45]

(iii)[45] the transportation of suspected terrorists from foreign countries to the United States for trial (so long as the requesting Federal law enforcement agency provides all security for such transportation and maintains custody over the suspect through the duration of the transportation).

(3) Department of Defense personnel made available to operate equipment for the purpose stated in paragraph (2)(D)[46] may continue to operate such equipment into the land area of the United States in cases involving the pursuit of vessels or aircraft where the detection began outside such land area.

(4) In this subsection:

(A) The term "Federal law enforcement agency" means a Federal[47] agency with jurisdiction to enforce any of the following:

(i) The Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.).

(ii) Any of sections 274 through 278 of the Immigration and Nationality Act (8 U.S.C. 1324–1328).

(iii) A law relating to the arrival or departure of merchandise (as defined in section 401 of the Tariff Act of 1930 (19 U.S.C. 1401) into or out of the customs territory of the United States (as defined in general note 2 of the Harmonized Tariff Schedule of the United States)[48] or any other territory or possession of the United States.

(iv) The Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.).

(v)[49] Any law, foreign or domestic, prohibiting terrorist activities.

(B) The term "land area of the United States" includes the land area of any territory, commonwealth, or possession of the United States.

(c) The Secretary of Defense may, in accordance with other applicable law, make Department of Defense personnel available to any Federal, State, or local civilian law enforcement agency to operate equipment for purposes other than described in subsec. (b)(2)[50] only to the extent that such support does not involve direct participation by such personnel in a civilian law enforcement operation unless such direct participation is otherwise authorized by law.

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[45] Sec. 201(4) of the Emergency Supplemental Appropriations (division B of Public Law 105–277; 112 Stat. 2681–567) inserted "and supporting" after "civilian law enforcement"; replaced a period at the end of the clause with "; and"; and added a new clause designated as "(iii)".

[46] Sec. 1042(2) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2492) struck "paragraph (2)(C)" and inserted in lieu thereof "paragraph (2)(D)" to conform with amendments in para. (2).

[47] Sec. 201(5) of the Emergency Supplemental Appropriations (division B of Public Law 105–277; 112 Stat. 2681–567) struck out "an" and inserted in lieu thereof "a Federal".

[48] Sec. 1216(b) of Public Law 101–189 (103 Stat. 1569) made technical corrections to the parenthetical text. It formerly referred to the "general headnote 2 of the Tariff Schedules of the United States".

[49] Sec. 201(6) of the Emergency Supplemental Appropriations (division B of Public Law 105–277; 112 Stat. 2681–567) added clause (v).

[50] Sec. 1216(c) of Public Law 101–189 (103 Stat. 1569) made technical corrections here. Formerly referred to "paragraph (2)".

§ 375.[36] Restriction on direct participation by military personnel

The Secretary of Defense shall prescribe such regulations as may be necessary to ensure that any activity[51] (including the provision of any equipment or facility or the assignment or detail of any personnel)[52] under this chapter does not include or permit direct participation by a member of the Army, Navy, Air Force, or Marine Corps in a search, seizure, arrest,[53] or other similar activity unless participation in such activity by such member is otherwise authorized by law.

§ 376.[36] Support not to affect adversely military preparedness

Support (including the provision of any equipment or facility or the assignment or detail of any personnel) may not be provided to any civilian law enforcement official under this chapter if the provision of such support will adversely affect the military preparedness of the United States. The Secretary of Defense shall prescribe such regulations as may be necessary to ensure that the provision of any such support does not adversely affect the military preparedness of the United States.

§ 377.[36] Reimbursement

(a) To the extent otherwise required by section 1535 of title 31 (popularly known as the 'Economy Act') or other applicable law, the Secretary of Defense shall require a civilian law enforcement agency to which support is provided under this chapter to reimburse the Department of Defense for that support.

(b) An agency to which support is provided under this chapter is not required to reimburse the Department of Defense for such support if such support—

(1) is provided in the normal course of military training or operations; or

(2) results in a benefit to the element of the Department of Defense providing the support that is substantially equivalent to that which would otherwise be obtained from military operations or training.

§ 378.[36] Nonpreemption of other law

Nothing in this chapter shall be construed to limit the authority of the executive branch in the use of military personnel or equipment for civilian law enforcement purposes beyond that provided by law before December 1, 1981.

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[51] Sec. 1211(1) of Public Law 101–189 (103 Stat. 1567) inserted "any activity" in lieu of "the provision of any support".

[52] Sec. 1211(2) of Public Law 101–189 (103 Stat. 1567) struck out "to any civilian law enforcement official" at this point.

[53] Sec. 1211(3) of Public Law 101–189 (103 Stat. 1567) inserted "a search, seizure, arrest," in lieu of "a search and seizure, an arrest,".

§ 379.[36] Assignment of Coast Guard personnel to naval vessels for law enforcement purposes

(a) The Secretary of Defense and the Secretary of Homeland Security[54] shall provide that there be assigned on board every appropriate surface naval vessel at sea in a drug-interdiction area members of the Coast Guard who are trained in law enforcement and have powers of the Coast Guard under title 14, including the power to make arrests and to carry out searches and seizures.

(b) Members of the Coast Guard assigned to duty on board naval vessels under this section shall perform such law enforcement functions (including drug-interdiction functions)—

(1) as may be agreed upon by the Secretary of Defense and the Secretary of Homeland Security;[54] and

(2) as are otherwise within the jurisdiction of the Coast Guard.

(c) No fewer than 500 active duty personnel of the Coast Guard shall be assigned each fiscal year to duty under this section. However, if at any time the Secretary of Homeland Security,[54] after consultation with the Secretary of Defense, determines that there are insufficient naval vessels available for purposes of this section, such personnel may be assigned other duty involving enforcement of laws listed in section 374(b)(4)(A) of this title.

(d) In this section, the term 'drug-interdiction area' means an area outside the land area of the United States (as defined in section 374(b)(4)(B) of this title) in which the Secretary of Defense (in consultation with the Attorney General) determines that activities involving smuggling of drugs into the United States are ongoing.

§ 380.[36] Enhancement of cooperation with civilian law enforcement officials

(a) The Secretary of Defense, in cooperation with the Attorney General, shall conduct an annual briefing of law enforcement personnel of each State (including law enforcement personnel of the political subdivisions of each State) regarding information, training, technical support, and equipment and facilities available to civilian law enforcement personnel from the Department of Defense.

(b) Each briefing conducted under subsection (a) shall include the following:

(1) An explanation of the procedures for civilian law enforcement officials—

(A) to obtain information, equipment, training, expert advice, and other personnel support under this chapter; and

(B) to obtain surplus military equipment.

(2) A description of the types of information, equipment and facilities, and training and advice available to civilian law enforcement officials from the Department of Defense.

(3) A current, comprehensive list of military equipment which is suitable for law enforcement officials from the Department of Defense or available as surplus property from the Administrator of General Services.

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[54] Sec. 1704(b) of the Homeland Security Act of 2002 (Public Law 107–296; 116 Stat. 2314) struck out "of Transportation" and inserted in lieu thereof "of Homeland Security".

(c) The Attorney General and the Administrator of General Services shall—

(1) establish or designate an appropriate office or offices to maintain the list described in subsection (b)(3) and to furnish information to civilian law enforcement officials on the availability of surplus military equipment; and

(2) make available to civilian law enforcement personnel nationwide, tollfree telephone communication with such office or offices.

* * * * * * *

§ 382.[55] Emergency situations involving chemical or biological weapons of mass destruction

(a) IN GENERAL.—The Secretary of Defense, upon the request of the Attorney General, may provide assistance in support of Department of Justice activities relating to the enforcement of section 175 or 2332c of title 18 during an emergency situation involving a biological or chemical weapon of mass destruction. Department of Defense resources, including personnel of the Department of Defense, may be used to provide such assistance if—

(1) the Secretary of Defense and the Attorney General jointly determine that an emergency situation exists; and

(2) the Secretary of Defense determines that the provision of such assistance will not adversely affect the military preparedness of the United States.

(b) EMERGENCY SITUATIONS COVERED.—In this section, the term "emergency situation involving a biological or chemical weapon of mass destruction" means a circumstance involving a biological or chemical weapon of mass destruction—

(1) that poses a serious threat to the interests of the United States; and

(2) in which—

(A) civilian expertise and capabilities are not readily available to provide the required assistance to counter the threat immediately posed by the weapon involved;

(B) special capabilities and expertise of the Department of Defense are necessary and critical to counter the threat posed by the weapon involved; and

(C) enforcement of section 175 or 2332c of title 18 would be seriously impaired if the Department of Defense assistance were not provided.

(c) FORMS OF ASSISTANCE.—The assistance referred to in subsection (a) includes the operation of equipment (including equipment made available under section 372 of this title) to monitor, contain, disable, or dispose of the weapon involved or elements of the weapon.

(d) REGULATIONS.—(1) The Secretary of Defense and the Attorney General shall jointly prescribe regulations concerning the types of assistance that may be provided under this section. Such regulations shall also describe the actions that Department of Defense

[55] Added by sec. 1416(a) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2721).

personnel may take in circumstances incident to the provision of assistance under this section.

(2)(A) Except as provided in subparagraph (B), the regulations may not authorize the following actions:

(i) Arrest.

(ii) Any direct participation in conducting a search for or seizure of evidence related to a violation of section 175 or 2332c of title 18.

(iii) Any direct participation in the collection of intelligence for law enforcement purposes.

(B) The regulations may authorize an action described in subparagraph (A) to be taken under the following conditions:

(i) The action is considered necessary for the immediate protection of human life, and civilian law enforcement officials are not capable of taking the action.

(ii) The action is otherwise authorized under subsection (c) or under otherwise applicable law.

(e) REIMBURSEMENTS.—The Secretary of Defense shall require reimbursement as a condition for providing assistance under this section to the extent required under section 377 of this title.

(f) DELEGATIONS OF AUTHORITY.—(1) Except to the extent otherwise provided by the Secretary of Defense, the Deputy Secretary of Defense may exercise the authority of the Secretary of Defense under this section. The Secretary of Defense may delegate the Secretary's authority under this section only to an Under Secretary of Defense or an Assistant Secretary of Defense and only if the Under Secretary or Assistant Secretary to whom delegated has been designated by the Secretary to act for, and to exercise the general powers of, the Secretary.

(2) Except to the extent otherwise provided by the Attorney General, the Deputy Attorney General may exercise the authority of the Attorney General under this section. The Attorney General may delegate that authority only to the Associate Attorney General or an Assistant Attorney General and only if the Associate Attorney General or Assistant Attorney General to whom delegated has been designated by the Attorney General to act for, and to exercise the general powers of, the Attorney General.

(g) RELATIONSHIP TO OTHER AUTHORITY.—Nothing in this section shall be construed to restrict any executive branch authority regarding use of members of the armed forces or equipment of the Department of Defense that was in effect before September 23, 1996.[56]

[56] Sec. 1073(a)(6) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1900) struck out "the date of the enactment of the National Defense Authorization Act for Fiscal Year 1997" and inserted in lieu thereof "September 23, 1996".

CHAPTER 20—HUMANITARIAN AND OTHER ASSISTANCE [57]

§ 401.[58] Humanitarian and civic assistance provided in conjunction with military operations

(a)(1) Under regulations prescribed by the Secretary of Defense,[59] the Secretary of a military department may carry out humanitarian and civic assistance activities in conjunction with authorized military operations of the armed forces in a country if the Secretary concerned determines that the activities will promote—

[57] Sec. 571(c) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 353) struck out subchapter headings I and II in chapter 20. Subchapter I marked secs. 401–404 as relating to humanitarian assistance.

[58] Sec. 401 was originally enacted by Sec. 333 of Public Law 99–661 (100 Stat. 3816), and codified at secs. 401 through 406 of 10 U.S.C. The National Defense Authorization Act, 1988 and 1989 (Public Law 100–180), consolidated secs. 401 through 406 into sec. 401, made technical changes and modified the section title.

Sec. 8009 of the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 971; 10 U.S.C. 401 note) provided the following:

"SEC. 8009. Within the funds appropriated for the operation and maintenance of the Armed Forces, funds are hereby appropriated pursuant to section 401 of title 10, United States Code, for humanitarian and civic assistance costs under chapter 20 of title 10, United States Code. Such funds may also be obligated for humanitarian and civic assistance costs incidental to authorized operations and pursuant to authority granted in section 401 of chapter 20 of title 10, United States Code, and these obligations shall be reported as required by section 401(d) of title 10, United States Code: *Provided,* That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance by using Civic Action Teams in the Trust Territories of the Pacific Islands and freely associated states of Micronesia, pursuant to the Compact of Free Association as authorized by Public Law 99–239: *Provided further,* That upon a determination by the Secretary of the Army that such action is beneficial for graduate medical education programs conducted at Army medical facilities located in Hawaii, the Secretary of the Army may authorize the provision of medical services at such facilities and transportation to such facilities, on a nonreimbursable basis, for civilian patients from American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, Palau, and Guam.".

[59] Sec. 1504 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1839) provided the following:

"SEC. 1504. HUMANITARIAN AND CIVIC ASSISTANCE.

"(a) REGULATIONS.—The regulations required to be prescribed under section 401 of title 10, United States Code, shall be prescribed not later than March 1, 1994. In prescribing such regulations, the Secretary of Defense shall consult with the Secretary of State.

"(b) LIMITATION ON USE OF FUNDS.—Section 401(c)(2) of title 10, United States Code, is amended by inserting before the period the following: ', except that funds appropriated to the Department of Defense for operation and maintenance (other than funds appropriated pursuant to such paragraph) may be obligated for humanitarian and civic assistance under this section only for incidental costs of carrying out such assistance'.

"(c) NOTIFICATIONS REGARDING HUMANITARIAN RELIEF.—Any notification provided to the appropriate congressional committees with respect to assistance activities under section 2551 of title 10, United States Code, shall include a detailed description of any items for which transportation is provided that are excess nonlethal supplies of the Department of Defense, including the quantity, acquisition value, and value at the time of the transportation of such items.

"(d) REPORT ON HUMANITARIAN ASSISTANCE ACTIVITIES.—(1) The Secretary of Defense shall submit to the appropriate congressional committees a report on the activities planned to be carried out by the Department of Defense during fiscal year 1995 under sections 401, 402, 2547, and 2551 of title 10, United States Code. The report shall include information, developed after consultation with the Secretary of State, on the distribution of excess nonlethal supplies transferred to the Secretary of State during fiscal year 1993 pursuant to section 2547 of that title.

"(2) The report shall be submitted at the same time that the President submits the budget for fiscal year 1995 to Congress pursuant to section 1105 of title 31, United States Code.

"(e) AUTHORIZATION OF APPROPRIATIONS.—The funds authorized to be appropriated by section 301(18) shall be available to carry out humanitarian and civic assistance activities under sections 401, 402, and 2551 of title 10, United States Code.

"(f) APPROPRIATE CONGRESSIONAL COMMITTEES.—In this section, the term 'appropriate congressional committees' means—

"(1) the Committee on Appropriations, the Committee on Armed Services, and the Committee on Foreign Affairs of the House of Representatives; and

"(2) the Committee on Appropriations, the Committee on Armed Services, and the Committee on Foreign Relations of the Senate.".

(A) the security interests of both the United States and the country in which the activities are to be carried out; and

(B) the specific operational readiness skills of the members of the armed forces who participate in the activities.

(2) Humanitarian and civic assistance activities carried out under this section shall complement, and may not duplicate, any other form of social or economic assistance which may be provided to the country concerned by any other department or agency of the United States. Such activities shall serve the basic economic and social needs of the people of the country concerned.

(3) Humanitarian and civic assistance may not be provided under this section (directly or indirectly) to any individual, group, or organization engaged in military or paramilitary activity.

(4)[60] The Secretary of Defense shall ensure that no member of the armed forces,[61] while providing assistance under this section that is described in subsection (e)(5)—

(A) engages in the physical detection, lifting, or destroying of landmines or other explosive remnants of war[62] (unless the member does so for the concurrent purpose of supporting a United States military operation); or

(B) provides such assistance as part of a military operation that does not involve the armed forces.[61]

(b)(1)[63] Humanitarian and civic assistance may not be provided under this section to any foreign country unless the Secretary of State specifically approves the provision of such assistance.

(2)[63] Any authority provided under any other provision of law to provide assistance that is described in subsection (e)(5) to a foreign country shall be carried out in accordance with, and subject to, the limitations prescribed in this section. Any such provision may be construed as superseding a provision of this section only if, and to the extent that, such provision specifically refers to this section and specifically identifies the provision of this section that is to be considered superseded or otherwise inapplicable under such provision.

(c)(1) Expenses incurred as a direct result of providing humanitarian and civic assistance under this section to a foreign country shall be paid for out of funds specifically appropriated for such purpose.

(2)[64] Expenses covered by paragraph (1) include the following expenses incurred in providing assistance described in subsection (e)(5):

(A) Travel, transportation, and subsistence expenses of Department of Defense personnel providing such assistance.

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[60] Sec. 1313(b) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 475) added para. (4).

[61] Sec. 1074(a)(2)(A) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2658) struck out "Armed Forces" and inserted in lieu thereof "armed forces".

[62] Sec. 1221(b)(1) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2089) inserted "or other explosive remnants of war" after "landmines".

[63] Sec. 1304(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2704) inserted para. designation "(1)" for subsec. (b), and added a new para. (2).

[64] Sec. 1304(a) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2704) redesignated para. (2) as para. (4), and added new paras. (2) and (3).

(B) The cost of any equipment, services, or supplies acquired for the purpose of carrying out or supporting the activities described in subsection (e)(5), including any nonlethal, individual, or small-team equipment or supplies for clearing landmines or other explosive remnants of war[65] that are to be transferred or otherwise furnished to a foreign country in furtherance of the provision of assistance under this section.

(3)[64] The cost of equipment, services, and supplies provided in any fiscal year under paragraph (2)(B) may not exceed $5,000,000.

(4)[64] Nothing in this section may be interpreted to preclude the incurring of minimal expenditures by the Department of Defense for purposes of humanitarian and civic assistance out of funds other than funds appropriated pursuant to paragraph (1),[66] except that funds appropriated to the Department of Defense for operation and maintenance (other than funds appropriated pursuant to such paragraph) may be obligated for humanitarian and civic assistance under this section only for incidental costs of carrying out such assistance.[67]

(d)[68] The Secretary of Defense shall submit to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on Armed Services and the Committee on International Relations[69] of the House of Representatives a report, not later than March 1 of each year, on activities carried out under this section during the preceding fiscal year. The Secretary shall include in each such report—

(1) a list of the countries in which humanitarian and civic assistance activities were carried out during the preceding fiscal year;

(2) the type and description of such activities carried out in each country during the preceding fiscal year; and

(3) the amount expended in carrying out each such activity in each such country during the preceding fiscal year.

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[65] Sec. 1221(b)(2) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2089) struck out "landmine clearing equipment or supplies" and inserted in lieu thereof "equipment or supplies for clearing landmines or other explosive remnants of war".

[66] Sec. 1233(g)(1) of Public Law 100–456 (102 Stat. 2058) struck out "subsection (1)" at this point and inserted "paragraph (1)".

[67] Sec. 1504(b) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1839) inserted ", except that funds appropriated to the Department of Defense for operation and maintenance (other than funds appropriated pursuant to such paragraph) may be obligated for humanitarian and civic assistance under this section only for incidental costs of carrying out such assistance".

[68] Sec. 1031(1) of Public Law 106–65 (113 Stat. 749) made sec. 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 (Public Law 104–66; 31 U.S.C. 1113 note), as amended, which provided that "each provision of law requiring the submittal to Congress (or any committee of the Congress) of any annual, semiannual, or other regular periodic report specified * * * shall cease to be effective, with respect to that requirement, May 15, 2000.", inapplicable to this section. For Public Law 104–66 and other legislation on the repeal of reporting requirements, see *Legislation on Foreign Relations Through 2004*, vol. IV.

[69] Sec. 1502((a)(8) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 503) struck out "submit to the Committees on Armed Services and Foreign Relations of the Senate and to the Committees on Armed Services and Foreign Affairs" and inserted in lieu thereof "submit to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on National Security and the Committee on International Relations". Sec. 1067(1) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 774) subsequently struck out "Committee on National Security" and inserted in lieu thereof "Committee on Armed Services".

(e)[70] In this section, the term "humanitarian and civic assistance" means any of the following:[71]

(1) Medical, dental, and veterinary care provided in areas of a country that are rural or are underserved by medical, dental, and veterinary professionals, respectively.[72]

(2) Construction of rudimentary surface transportation systems.

(3) Well drilling and construction of basic sanitation facilities.

(4) Rudimentary construction and repair of pubic facilities.

(5) Detection and clearance of landmines and other explosive remnants of war,[73] including activities relating to the furnishing of education, training, and technical assistance with respect to the detection and clearance of landmines and other explosive remnants of war.[73]

(f) Not more than $16,400,000 may be obligated or expended for the purposes of this section during fiscal years 1987 through 1991.

§ 402.[74] Transportation of humanitarian relief supplies to foreign countries

(a) Notwithstanding any other provision of law, and subject to subsection (b), the Secretary of Defense may transport to any country, without charge, supplies which have been furnished by a nongovernmental source and which are intended for humanitarian assistance. Such supplies may be transported only on a space available basis.

(b)(1) The Secretary may not transport supplies under subsection (a) unless the Secretary determines that—

(A) the transportation of such supplies is consistent with the foreign policy of the United States;

(B) the supplies to be transported are suitable for humanitarian purposes and are in usable condition;

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[70] Sec. 1313(a) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 475) made technical amendments to subsec. (e) and added a new para. (5).

[71] Sec. 1074(a)(2)(B) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2658) added "any of the following" after "means".

[72] Sec. 1235 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (H.R. 5408, as enacted in sec. 1 of Public Law 106–398; 114 Stat. 1654a–819) struck out "rural areas of a country" and inserted in lieu thereof "areas of a country that are rural or are underserved by medical, dental, and veterinary professionals, respectively.".

[73] Sec. 1221(a) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2089) inserted "and other explosive remnants of war" after "landmines".

[74] Sec. 402 was enacted by sec. 332 of the National Defense Authorization Act, FY 1988–89 (Public Law 100–180; 101 Stat. 1079).

Sec. 403 of the Microenterprise for Self-Reliance and International Anti-Corruption Act of 2000 (Public Law 106–309; 114 Stat. 1097) provided the following:

"SEC. 403. PROCESSING OF APPLICATIONS FOR TRANSPORTATION OF HUMANITARIAN ASSISTANCE ABROAD BY THE DEPARTMENT OF DEFENSE.

"(a) PRIORITY FOR DISASTER RELIEF ASSISTANCE.—In processing applications for the transportation of humanitarian assistance abroad under section 402 of title 10, United States Code, the Administrator of the United States Agency for International Development shall afford a priority to applications for the transportation of disaster relief assistance.

"(b) MODIFICATION OF APPLICATIONS.—The Administrator of the United States Agency for International Development shall take all possible actions to assist applicants for the transportation of humanitarian assistance abroad under such section 402 in modifying or completing applications submitted under such section in order to meet applicable requirements under such section. The actions shall include efforts to contact such applicants for purposes of the modification or completion of such applications.".

(C) there is a legitimate humanitarian need for such supplies by the people or entity[75] for whom they are intended;

(D) the supplies will in fact be used for humanitarian purposes; and

(E) adequate arrangements have been made for the distribution or use[76] of such supplies in the destination country.

(2) The President shall establish procedures for making the determinations required under paragraph (1). Such procedures shall include inspection of supplies before acceptance for transport.

(3) It shall be the responsibility of the entity requesting the transport of supplies under this section to ensure that the supplies[77] are suitable for transport.

(c)(1) Supplies transported under this section may be distributed by an agency of the United States Government, a foreign government, an international organization, or a private nonprofit relief organization.

(2) Supplies transported under this section may not be distributed, directly or indirectly, to any individual, group, or organization engaged in a military or paramilitary activity.

(d)[78] (1) The Secretary of Defense may use the authority provided by subsection (a) to transport supplies intended for use to respond to, or mitigate the effects of, an event or condition, such as an oil spill, that threatens serious harm to the environment, but only if other sources to provide such transportation are not readily available.

(2) Notwithstanding subsection (a), the Secretary of Defense may require reimbursement for costs incurred by the Department of Defense to transport supplies under this subsection.

(e)[78] Not later than July 31 each year,[79] the Secretary of State shall submit to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on Armed Services and the Committee on International Relations[80] of the House of Representatives a report identifying the origin, contents, destination, and disposition of all supplies transported under this section during the 12-month period ending on the preceding June 30.[79]

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[75] Sec. 312(b)(1) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1429) inserted "or entity" after "people".

[76] Sec. 312(b)(2) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1429) inserted "or use" after "distribution".

[77] Sec. 312(b)(3) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1429) struck out "donor to ensure that supplies to be transported under this section" and inserted in lieu thereof "entity requesting the transport of supplies under this section to ensure that the supplies".

[78] Sec. 312(a) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1429) redesignated subsec. (d) as subsec. (e), and added a new subsec. (d).

[79] Sec. 1311(2) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1669) struck out "At the end of each six-month period" and inserted "Not later than July 31 each year" at the beginning of this paragraph; and struck out "such six-month period" at the end, inserting in lieu thereof "the 12-month period ending on the preceding June 30".

[80] Sec. 1502((a)(8) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 503) struck out "submit to the Committees on Armed Services and Foreign Relations of the Senate and to the Committees on Armed Services and Foreign Affairs" and inserted in lieu thereof "submit to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on National Security and the Committee on International Relations". Sec. 1067(1) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 774) subsequently struck out "Committee on National Security" and inserted in lieu thereof "Committee on Armed Services".

§ 403.[81] * * * [Repealed—1996]

§ 404.[82] Foreign disaster assistance

(a) IN GENERAL.—The President may direct the Secretary of Defense to provide disaster assistance outside the United States to respond to manmade or natural disasters when necessary to prevent loss of lives or serious harm to the environment.[83]

(b) FORMS OF ASSISTANCE.—Assistance provided under this section may include transportation, supplies, services, and equipment.

(c) NOTIFICATION REQUIRED.—Not later than 48 hours after the commencement of disaster assistance activities to provide assistance under this section, the President shall transmit to Congress a report containing notification of the assistance provided, and proposed to be provided, under this section and a description of so much of the following as is then available:

(1) The manmade or natural disaster for which disaster assistance is necessary.

(2) The threat to human lives or the environment[84] presented by the disaster.

(3) The United States military personnel and material resources that are involved or expected to be involved.

(4) The disaster assistance that is being provided or is expected to be provided by other nations or public or private relief organizations.

(5) The anticipated duration of the disaster assistance activities.

(d) ORGANIZING POLICIES AND PROGRAMS.—Amounts appropriated to the Department of Defense for any fiscal year for Overseas Humanitarian, Disaster, and Civic Aid (OHDACA) programs of the Department shall be available for organizing general policies and programs for disaster relief programs for disasters occurring outside the United States.

(e)[85] LIMITATION ON TRANSPORTATION ASSISTANCE.—Transportation services authorized under subsection (b) may be provided in response to a manmade or natural disaster to prevent serious harm to the environment, when human lives are not at risk, only if other sources to provide such transportation are not readily available.

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[81] Sec. 403, relating to international peacekeeping activities, was repealed by sec. 1061(g)(1) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 443). It was originally added by sec. 1342(c)(1) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2557).

[82] Added by sec. 1412(a) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2912).

[83] Sec. 312(c)(1) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1430) inserted "or serious harm to the environment" after "loss of lives".

[84] Sec. 312(c)(2) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1430) inserted "or the environment" after "human lives".

[85] Sec. 312(c)(3) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1430) added subsec. (e).

§ 405.[86] Use of Department of Defense funds for United States share of costs of United Nations peacekeeping activities: limitation

(a) PROHIBITION ON USE OF FUNDS.—Funds available to the Department of Defense may not be used to make a financial contribution (directly or through another department or agency of the United States) to the United Nations—

(1) for the costs of a United Nations peacekeeping activity; or

(2) for any United States arrearage to the United Nations.

(b) APPLICATION OF PROHIBITION.—The prohibition in subsection (a) applies to voluntary contributions, as well as to contributions pursuant to assessment by the United Nations for the United States share of the costs of a peacekeeping activity.

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PART II—PERSONNEL

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CHAPTER 38—JOINT OFFICER MANAGEMENT

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§ 691.[87] Permanent end strength levels to support two major regional contingencies

(a) The end strengths specified in subsection (b) are the minimum strengths necessary to enable the armed forces to fulfill a national defense strategy calling for the United States to be able to successfully conduct two nearly simultaneous major regional contingencies.

(b) Unless otherwise provided by law, the number of members of the armed forces (other than the Coast Guard) on active duty at the end of any fiscal year shall be not less than the following:

(1) For the Army, 502,400.[88]

(2) For the Navy, 365,900.[89]

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[86] Sec. 405 was added by sec. 1301(a) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 473).

[87] Added by sec. 401(b)(1) of Public Law 104–106 (110 Stat. 285).

[88] Sec. 402 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1862) amended and restated paras. (1) through (4), effectively striking out "482,400" and inserting "502,400" in para. (1).

Previously, sec. 402(1) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1450) struck out "480,000" and inserted in lieu thereof "482,400". Sec. 402(a)(1) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261 112 Stat. 1995) struck out "495,000" and inserted in lieu thereof "480,000".

[89] Sec. 402 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1862) amended and restated paras. (1) through (4), effectively striking out "373,800" and inserting "365,900" in para. (2).

Previously, sec. 402(2) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1450) struck out "375,700" and inserted in lieu thereof "373,800". Sec. 402(a)(1) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2524), struck out "376,000" and inserted in lieu thereof "375,700". Sec. 402(1) of Public Law 107–107 (115 Stat. 1069) struck out "372,000" and inserted in lieu thereof "376,000". Sec. 402(a)(1) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (H.R. 5408, as enacted in sec. 1 of Public Law 106–398; 114 Stat. 1654a–215) struck out "371,781" and inserted in lieu thereof "372,000". Sec. 402(1) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 585) struck out "372, 696" and

Continued

(3) For the Marine Corps, 178,000.[90]

(4) For the Air Force, 359,300.[91]

(c)[92] The budget for the Department of Defense for any fiscal year as submitted to Congress shall include amounts for funding for each of the Armed forces (other than the Coast Guard) at least in the amounts necessary to maintain the active duty end strengths prescribed in subsection (b), as in effect at the time that such budget is submitted.

(d) No funds appropriated to the Department of Defense may be used to implement a reduction of the active duty end strength for any of the armed forces (other than the Coast Guard) for any fiscal year below the level specified in subsection (b) unless the reduction in end strength for that armed force for that fiscal year is specifically authorized by law.

(e)[93] * * * [Repealed—2002]

(f) The number of members of the armed forces on active duty shall be counted for purposes of this section in the same manner as applies under section 115(a)(1) of this title.

CHAPTER 53—MISCELLANEOUS RIGHTS AND BENEFITS

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inserted in lieu thereof "371,781". Sec. 402(a)(2) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 1995) struck out "390,802" and inserted in lieu thereof "372,696". Sec. 402(a)(1) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1719) struck out "395,000" and inserted in lieu thereof "390,802".

[90] Sec. 402 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1862) amended and restated paras. (1) through (4), effectively striking out "175,000" and inserting "178,000" in para. (3).

Previously, sec. 402(a)(2) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2524), struck out "172,600" and inserted in lieu thereof "175,000". Sec. 402(a)(2) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (H.R. 5408, as enacted in sec. 1 of Public Law 106–398; 114 Stat. 1654a–215) struck out "171,148" and inserted in lieu thereof "172,600". Sec. 402(2) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 585) struck out "172,200" and inserted in lieu thereof "172,148". Sec. 402(a)(3) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 1995) struck out "174,000" and inserted in lieu thereof "172,200".

[91] Sec. 402 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1862) amended and restated paras. (1) through (4), effectively striking out "359,300" and inserting "359,700" in para. (4).

Previously, sec. 402(3) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1450) struck out "359,000" and inserted in lieu thereof "359,300". Sec. 402(a)(3) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2524), struck out "358,800" and inserted in lieu thereof "359,000". Sec. 402(2) of Public Law 107–107 (115 Stat. 1069) struck out "357,000" and inserted in lieu thereof "358,800". Sec. 402(a)(3) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (H.R. 5408, as enacted in sec. 1 of Public Law 106–398; 114 Stat. 1654a–215) struck out "360,877" and inserted in lieu thereof "357,000". Sec. 402(3) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 585) struck out "370,802" and inserted in lieu thereof "360,877". Sec. 402(a)(4) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 1995) struck out "371,577" and inserted in lieu thereof "370,802". Sec. 402(a)(2) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1719) struck out "381,000" and inserted in lieu thereof "371,577".

[92] Sec. 402 of Public Law 104–201 (110 Stat. 2503) struck out former subsec. (c), redesignated former subsecs. (d) and (e) as subsecs. (e) and (f), respectively, and added new subsecs. (c) and (d).

[93] Sec. 402(b) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2525), repealed subsec. (e), which had, as amended, provided the following:

"(e) For a fiscal year for which the active duty end strength authorized by law pursuant to section 115(a)(1)(A) of this title for any of the armed forces is identical to or greater than the number applicable to that armed force under subsection (b), the Secretary of Defense may reduce that number by not more than 0.5 percent.".

§ 1051b.[94] Bilateral or regional cooperation programs: awards and mementos to recognize superior noncombat achievements or performance

(a) GENERAL AUTHORITY.—The Secretary of Defense may present awards and mementos purchased with funds appropriated for operation and maintenance of the armed forces to recognize superior noncombat achievements or performance by members of friendly foreign forces and other foreign nationals that significantly enhance or support the National Security Strategy of the United States.

(b) ACTIVITIES THAT MAY BE RECOGNIZED.—Activities that may be recognized under subsection (a) include superior achievement or performance that—

(1) plays a crucial role in shaping the international security environment in ways that protect and promote United States interests;

(2) supports or enhances United States overseas presence and peacetime engagement activities, including defense cooperation initiatives, security assistance training and programs, and training and exercises with the armed forces;

(3) helps to deter aggression and coercion, build coalitions, and promote regional stability; or

(4) serves as a role model for appropriate conduct by military forces in emerging democracies.

(c) LIMITATION.—Expenditures for the purchase or production of mementos for award under this section may not exceed the minimal value in effect under section 7342(a)(5) of title 5.

§ 1060.[95] Military service of retired members with newly democratic nations: consent of Congress

(a) CONSENT OF CONGRESS.—Subject to subsection (b), Congress consents to a retired member of the uniformed services—

(1) accepting employment by, or holding an office or position in, the military forces of a newly democratic nation; and

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[94] Sec. 1222(a) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1652) added sec. 1051b.

[95] Added as sec. 1058 by sec. 1433(b)(1) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1833). Redesignated as sec. 1060 by sec. 1070(a)(6)(A) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2855).

Originally, this section became effective January 1, 1993, pursuant to sec. 1433(d) of Public Law 103–160. Subsec. (d) was subsequently repealed by sec. 182(b) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 1078 Stat. 418). Subsec. (a) of that section, however, provided: "With respect to any person for which the Secretary of State and the Secretary concerned within the Department of Defense has approved the employment or the holding of a position pursuant to the provisions of section 1058, title 10, United States Code, before the date of enactment of this Act, the consents, approvals and determinations under that section shall be deemed to be effective as of January 1, 1993.".

Sec. 1433(a) of Public Law 103–160 provided:

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

"(1) It is in the national security interest of the United States to promote democracy throughout the world.

"(2) The armed forces of newly democratic nations often lack the democratic traditions that are a hallmark of the Armed Forces of the United States.

"(3) The understanding of military roles and missions in a democracy is essential for the development and preservation of democratic forms of government.

"(4) The service of retired members of the Armed Forces of the United States in the armed forces of newly democratic nations could lead to a better understanding of military roles and missions in a democracy.".

(2) accepting compensation associated with such employment, office, or position.

(b) APPROVAL REQUIRED.—The consent provided in subsection (a) for a retired member of the uniformed services to accept employment or hold an office or position shall apply to a retired member only if the Secretary concerned and the Secretary of State jointly approve the employment or the holding of such office or position.

(c) DETERMINATION OF NEWLY DEMOCRATIC NATIONS.—The Secretary concerned and the Secretary of State shall jointly determine whether a nation is a newly democratic nation for the purposes of this section.

(d)[96] * * *

(e) CONTINUED ENTITLEMENT TO RETIRED PAY AND BENEFITS.—The eligibility of a retired member to receive retired or retainer pay and other benefits arising from the retired member's status as a retired member of the uniformed services, and the eligibility of dependents of such retired member to receive benefits on the basis of such retired member's status as a retired member of the uniformed services, may not be terminated by reason of employment or holding of an office or position consented to in subsection (a).

(f) RETIRED MEMBER DEFINED.—In this section, the term "retired member" means a member or former member of the uniformed services who is entitled to receive retired or retainer pay.

(g) CIVIL EMPLOYMENT BY FOREIGN GOVERNMENTS.—For a provision of law providing the consent of Congress to civil employment by foreign governments, see section 908 of title 37.

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CHAPTER 89—VOLUNTEERS INVESTING IN PEACE AND SECURITY * * * [Repealed—1996][97]

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CHAPTER 101—TRAINING GENERALLY

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§ 2010.[98] Participation of developing countries in combined exercises: payment of incremental expenses

(a) The Secretary of Defense, after consultation with the Secretary of State, may pay the incremental expenses of a developing

[96] Sec. 1031(a)(9) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1597) struck out subsec. (d), which had required reports to Congress on approvals under subsec. (b) and determinations under subsec. (c).

[97] Chapter 89, authorizing the Secretary of Defense to establish a volunteer program to assist independent states of the former Soviet Union, was repealed by sec. 1061(a)(1) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 442). Sec. 1805 of this chapter had provided that selection of volunteers would terminate on September 30, 1995.

[98] Sec. 2010 was added by sec. 1321 of Public Law 99–661 (100 Stat. 3816).

Sec. 1031(1) of Public Law 106–65 (113 Stat. 749) made sec. 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 (Public Law 104–66; 31 U.S.C. 1113 note), as amended, which provided that "each provision of law requiring the submittal to Congress (or any committee of the Congress) of any annual, semiannual, or other regular periodic report specified * * * shall cease to be effective, with respect to that requirement, May 15, 2000.", inapplicable to this section. For Public Law 104–66 and other legislation on the repeal of reporting requirements, see *Legislation on Foreign Relations Through 2004*, vol. IV.

country that are incurred by that country as the direct result of participation in a bilateral or multilateral military exercise if—

(1) the exercise is undertaken primarily to enhance the security interests of the United States; and

(2) the Secretary of Defense determines that the participation by such country is necessary to the achievement of the fundamental objectives of the exercise and that those objectives cannot be achieved unless the United States provides the incremental expenses incurred by such country.

(b) The Secretary of Defense shall submit to Congress a report each year, not later than March 1, containing—

(1) a list of the developing countries for which expenses have been paid by the United States under this section during the preceding year; and

(2) the amounts expended on behalf of each government.

(c) The Secretary of Defense shall establish by regulation such accounting procedures as may be necessary to ensure that funds expended under this section are properly expended.

(d) In this section, the term "incremental expenses" means the reasonable and proper cost of the goods and services that are consumed by a developing country as a direct result of that country's participation in a bilateral or multilateral military exercise with the United States, including rations, fuel, training ammunition, and transportation. Such term does not include pay, allowances, and other normal costs of such country's personnel.

(e)[99] * * * [Repealed—1997]

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§ 2011.[100] Special operations forces: training with friendly foreign forces

(a)[101] AUTHORITY TO PAY TRAINING EXPENSES.—Under regulations prescribed pursuant to subsection (c), the commander of the special operations command established pursuant to section 167 of this title and the commander of any other unified or specified combatant command may pay, or authorize payment for, any of the following expenses:

(1) Expenses of training special operations forces assigned to that command in conjunction with training, and training with, armed forces and other security forces of a friendly foreign country.

(2) Expenses of deploying such special operations forces for that training.

(3) In the case of training in conjunction with a friendly developing country, the incremental expenses incurred by that country as the direct result of such training.

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[99] Sec. 1073(a)(35) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1902) repealed subsec. (e), which had read as follows:

"(e) Not more than $13,400,000 may be obligated or expended for the purposes of this section during fiscal years 1987 through 1991.".

[100] Added by sec. 1052(a) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1470).

[101] Sec. 1503(a)(18) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 512) capitalized the word "To" in the catchline of subsec. (a).

(b) PURPOSE OF TRAINING.—The primary purpose of the training for which payment may be made under subsection (a) shall be to train the special operations forces of the combatant command.

(c) REGULATIONS.—The Secretary of Defense shall prescribe regulations for the administration of this section. The regulations shall require that training activities may be carried out under this section only with the prior approval of the Secretary of Defense.[102] The regulations shall establish accounting procedures to ensure that the expenditures pursuant to this section are appropriate.

(d) DEFINITIONS.—In this section:

(1) The term "special operations forces" includes civil affairs forces and psychological operations forces.

(2) The term "incremental expenses", with respect to a developing country, means the reasonable and proper cost of rations, fuel, training ammunition, transportation, and other goods and services consumed by such country, except that the term does not include pay, allowances, and other normal costs of such country's personnel.

(e)[103] REPORTS.—Not later than April 1 of each year, the Secretary of Defense shall submit to Congress a report regarding training during the preceding fiscal year for which expenses were paid under this section. Each report shall specify the following:

(1) All countries in which that training was conducted.

(2) The type of training conducted, including whether such training was related to counter-narcotics or counter-terrorism activities, the duration of that training, the number of members of the armed forces involved, and expenses paid.

(3) The extent of participation by foreign military forces, including the number and service affiliation of foreign military personnel involved and physical and financial contribution of each host nation to the training effort.

(4) The relationship of that training to other overseas training programs conducted by the armed forces, such as military exercise programs sponsored by the Joint Chiefs of Staff, military exercise programs sponsored by a combatant command, and military training activities sponsored by a military department (including deployments for training, short duration exercises, and other similar unit training events).

(5)[104] A summary of the expenditures under this section resulting from the training for which expenses were paid under this section.

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[102] Sec. 1062(a) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2129) added this sentence.

[103] Sec. 1031(1) of Public Law 106–65 (113 Stat. 749) made sec. 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 (Public Law 104–66; 31 U.S.C. 1113 note), as amended, which provided that "each provision of law requiring the submittal to Congress (or any committee of the Congress) of any annual, semiannual, or other regular periodic report specified * * * shall cease to be effective, with respect to that requirement, May 15, 2000.", inapplicable to this section. For Public Law 104–66 and other legislation on the repeal of reporting requirements, see *Legislation on Foreign Relations Through 2004*, vol. IV.

[104] Sec. 1062(b) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2129) added paras. (5) and (6).

(6)[104] A discussion of the unique military training benefit to United States special operations forces derived from the training activities for which expenses were paid under this section.

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CHAPTER 103—SENIOR RESERVE OFFICERS' TRAINING CORPS

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§ 2111b.[105] Senior military colleges: Department of Defense international student program

(a) PROGRAM REQUIREMENT.—The Secretary of Defense shall establish a program to facilitate the enrollment and instruction of persons from foreign countries as international students at the senior military colleges.

(b) PURPOSES.—The purposes of the program shall be—

(1) to provide a high-quality, cost-effective military-based educational experience for international students in furtherance of the military-to-military program objectives of the Department of Defense; and

(2) to enhance the educational experience and preparation of future United States military leaders through increased, extended interaction with highly qualified potential foreign military leaders.

(c) COORDINATION WITH THE SENIOR MILITARY COLLEGES.—Guidelines for implementation of the program shall be developed in coordination with the senior military colleges.

(d) RECOMMENDATIONS FOR ADMISSION OF STUDENTS UNDER THE PROGRAM.—The Secretary of Defense shall annually identify to the senior military colleges the international students who, based on criteria established by the Secretary, the Secretary recommends be considered for admission under the program. The Secretary shall identify the recommended international students to the senior military colleges as early as possible each year to enable those colleges to consider them in a timely manner in their respective admissions processes.

(e) DOD FINANCIAL SUPPORT.—An international student who is admitted to a senior military college under the program under this section is responsible for the cost of instruction at that college. The Secretary of Defense may, from funds available to the Department of Defense other than funds available for financial assistance under section 2107a of this title, provide some or all of the costs of instruction for any such student.

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CHAPTER 108—DEPARTMENT OF DEFENSE SCHOOLS

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[105] Added by sec. 541(a)(1) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 606). Subsec. (d) of that section further provided:

"(d) FISCAL YEAR 2000 FUNDING.—Of the amounts made available to the Department of Defense for fiscal year 2000 pursuant to section 301, $2,000,000 shall be available for financial support for international students under section 2111b of title 10, United States Code, as added by subsection (a).".

§ 2166.[106] Western Hemisphere Institute for Security Cooperation

(a) ESTABLISHMENT AND ADMINISTRATION.—(1) The Secretary of Defense may operate an education and training facility for the purpose set for this subsection (b). The facility shall be known as the "Western Hemisphere Institute for Security Cooperation".

(2) The Secretary may designate the Secretary of a military department as the Department of Defense executive agent for carrying out the responsibilities of the Secretary of Defense under this section.

(b) PURPOSE.—The purpose of the Institute is to provide professional education and training to eligible personnel of nations of the Western Hemisphere within the context of the democratic principles set forth in the Charter of the Organization of American States (such charter being a treaty to which the United States is a party), while fostering mutual knowledge, transparency, confidence, and cooperation among the participating nations and promoting democratic values, respect for human rights, and knowledge and understanding of United States customs and traditions.

(c) ELIGIBLE PERSONNEL.—(1) Subject to paragraph (2), personnel of nations of the Western Hemisphere are eligible for education and training at the Institute as follows:

(A) Military personnel.

(B) Law enforcement personnel.

(C) Civilian personnel.

(2) The Secretary of State shall be consulted in the selection of foreign personnel for education or training at the Institute.

(d) CURRICULUM.—(1) The curriculum of the Institute shall include mandatory instruction for each student, for at least 8 hours, on human rights, the rule of law, due process, civilian control of the military, and the role of the military in a democratic society.

(2) The curriculum may include instruction and other educational and training activities on the following:

(A) Leadership development.

(B) Counterdrug operations.

(C) Peace support operations.

(D) Disaster relief.

(E) Any other matter that the Secretary determines appropriate.

(e) BOARD OF VISITORS.—(1) There shall be a Board of Visitors for the Institute. The Board shall be composed of the following:

(A) The chairman and ranking minority member of the Committee on Armed Services of the Senate, or a designee of either of them.

(B) The chairman and ranking minority member of the Committee on Armed Services of the House of Representatives, or a designee of either of them.

(C) Six persons designated by the Secretary of Defense including, to the extent practicable, persons from academia and the religious and human rights communities.

(D) One person designated by the Secretary of State.

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[106] Added by sec. 911(a) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398; 114 Stat. 1654A–226).

(E) The senior military officer responsible for training and doctrine for the Army or, if the Secretary of the Navy or the Secretary of the Air Force is designated as the executive agent of the Secretary of Defense under subsection (a)(2), the senior military officer responsible for training and doctrine for the Navy or Marine Corps or for the Air Force, respectively, or a designee of the senior military officer concerned.

(F) The commander of the unified combatant command having geographic responsibility for Latin America, or a designee of that officer.

(2) A vacancy in a position on the Board shall be filled in the same manner as the position was originally filled.

(3) The Board shall meet at least once each year.

(4)(A) The Board shall inquire into the curriculum, instruction, physical equipment, fiscal affairs, and academic methods of the Institute, other matters relating to the Institute that the Board decides to consider, and any other matter that the Secretary of Defense determines appropriate.

(B) The Board shall review the curriculum of the Institute to determine whether—

(i) the curriculum complies with applicable United States laws and regulations;

(ii) the curriculum is consistent with United States policy goals toward Latin America and the Caribbean;

(iii) the curriculum adheres to current United States doctrine; and

(iv) the instruction under the curriculum appropriately emphasizes the matters specified in subsection (d)(1).

(5) Not later than 60 days after its annual meeting, the Board shall submit to the Secretary of Defense a written report of its activities and of its views and recommendations pertaining to the Institute.

(6) Members of the Board shall not be compensated by reason of service on the Board.

(7) With the approval of the Secretary of Defense, the Board may accept and use the services of voluntary and uncompensated advisers appropriate to the duties of the Board without regard to section 1342 of title 31.

(8) Members of the Board and advisers whose services are accepted under paragraph (7) shall be allowed travel and transportation expenses, including per diem in lieu of subsistence, while away from their homes or regular places of business in the performance of services for the Board. Allowances under this paragraph shall be computed—

(A) in the case of members of the Board who are officers or employees of the United States, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5; and

(B) in the case of other members of the Board and advisers, as authorized under section 5703 of title 5 for employees serving without pay.

(9) The Federal Advisory Committee Act (5 U.S.C. App.),[107] other than section 14 (relating to termination after two years), shall apply to the Board.

(f)[108] AUTHORITY TO ACCEPT FOREIGN GIFTS AND DONATIONS.—(1) The Secretary of Defense may, on behalf of the Institute, accept foreign gifts or donations in order to defray the costs of, or enhance the operation of, the Institute.

(2) Funds received by the Secretary under paragraph (1) shall be credited to appropriations available for the Department of Defense for the Institute. Funds so credited shall be merged with the appropriations to which credited and shall be available for the Institute for the same purposes and same period as the appropriations with which merged.

(3) The Secretary of Defense shall notify Congress if the total amount of money accepted under paragraph (1) exceeds $1,000,000 in any fiscal year. Any such notice shall list each of the contributors of such money and the amount of each contribution in such fiscal year.

(4) For the purposes of this subsection, a foreign gift or donation is a gift or donation of funds, materials (including research materials), property, or services (including lecture services and faculty services) from a foreign government, a foundation or other charitable organization in a foreign country, or an individual in a foreign country.

(g)[108] FIXED COSTS.—The fixed costs of operating and maintaining the Institute for a fiscal year may be paid from—

(1) any funds available for that fiscal year for operation and maintenance for the executive agent designated under subsection (a)(2); or

(2) if no executive agent is designated under subsection (a)(2), any funds available for that fiscal year for the Department of Defense for operation and maintenance for Defense-wide activities.

(h)[108] TUITION.—Tuition fees charged for persons who attend the Institute may not include the fixed costs of operating and maintaining the Institute.

(i)[108] ANNUAL REPORT.—Not later than March 15 of each year, the Secretary of Defense shall submit to Congress a detailed report on the activities of the Institute during the preceding year. The report shall include a copy of the latest report by the Board of Visitors received by the Secretary under subsection (e)(5), together with any comments of the Secretary on the Board's report.[109] The report shall be prepared in consultation with the Secretary of State.

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[107] Sec. 1048(1)(16) of Public Law 107–107 (115 Stat. 1223) struck out "(2 U.S.C. App.)" and inserted in lieu thereof "(5 U.S.C. App.)".

[108] Sec. 932(a)(1) of Public Law 107–314 (116 Stat. 2625) redesignated subsecs. (f) through (h) as subsecs. (g) through (i), and added a new subsec. (f).

[109] Sec. 932(b) of Public Law 107–314 (116 Stat. 2625) added this sentence.

CHAPTER 111—SUPPORT OF SCIENCE, MATHEMATICS, AND ENGINEERING EDUCATION

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§ 2198.[110] Management training program in Japanese language and culture

(a) The Secretary of Defense, in coordination with the National Science Foundation, shall establish a program for the making of grants on a competitive basis to United States institutions of higher education and other United States not-for-profit organizations for the conduct of programs for scientists, engineers, and managers to learn Japanese language and culture.

(b) The Secretary of Defense shall prescribe in regulations the criteria for awarding a grant under the program for activities of an institution or organization referred to in subsection (a), including the following:

(1) Whether scientists, engineers, and managers of defense laboratories and Department of Energy laboratories are permitted a level of participation in such activities that is beneficial to the development and application of defense critical technologies by such laboratories.

(2) Whether such activities include the placement of United States scientists, engineers, and managers in Japanese government and industry laboratories—

(A) to improve the knowledge of such scientists, engineers, and managers in (i) Japanese language and culture, and (ii) the research and development and management practices of such laboratories; and

(B) to provide opportunities for the encouragement of technology transfer from Japan to the United States.

(3) Whether an appropriate share of the costs of such activities will be paid out of funds derived from non-Federal Government sources.

(c) In this section, the term "defense critical technology" means a technology that is identified under section 2505 of this title as critical for attaining the national security objectives set forth in section 2501(a) of this title.[111]

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PART IV—SERVICE, SUPPLY, AND PROCUREMENT

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[110] Added by sec. 828(a) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1444).

[111] Sec. 1073(a)(39) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1902) struck out "identified in a defense critical technologies plan submitted to the Congress under section 2506 of this title." and inserted in lieu thereof "that is identified under section 2505 of this title as critical for attaining the national security objectives set forth in section 2501(a) of this title.".

Sec. 201(c)(3) of Public Law 103–35 (107 Stat. 98) previously made technical corrections to this subsection.

§ 2214.[112] Transfer of funds: procedure and limitations

(a) PROCEDURE FOR TRANSFER OF FUNDS.—Whenever authority is provided in an appropriation Act to transfer amounts in working capital funds or to transfer amounts provided in appropriation Acts for military functions of the Department of Defense (other than military construction) between such funds or appropriations (or any subdivision thereof), amounts transferred under such authority shall be merged with and be available for the same purposes and for the same time period as the fund or appropriations to which transferred.

(b) LIMITATIONS ON PROGRAMS FOR WHICH AUTHORITY MAY BE USED.—Such authority to transfer amounts—

(1) may not be used except to provide funds for a higher priority item, based on unforeseen military requirements, than the items for which the funds were originally appropriated; and

(2) may not be used if the item to which the funds would be transferred is an item for which Congress has denied funds.

(c) NOTICE TO CONGRESS.—The Secretary of Defense shall promptly notify the Congress of each transfer made under such authority to transfer amounts.

(d) LIMITATIONS ON REQUESTS TO CONGRESS FOR REPROGRAMMINGS.—Neither the Secretary of Defense nor the Secretary of a military department may prepare or present to the Congress, or to any committee of either House of the Congress, a request with respect to a reprogramming of funds—

(1) unless the funds to be transferred are to be used for a higher priority item, based on unforeseen military requirements, than the item for which the funds were originally appropriated; or

(2) if the request would be for authority to reprogram amounts to an item for which the Congress has denied funds.

§ 2215.[113] Transfer of funds to other departments and agencies: limitation

Funds available for military functions of the Department of Defense may not be made available to any other department or agency of the Federal Government pursuant to a provision of law enacted after November 29, 1989, unless, not less than 30 days before such funds are made available to such other department or agency, the Secretary of Defense submits to the congressional defense committees [114] a certification that making those funds available to such

[112] Sec. 1482(c) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1709) added a sec. 2214, effective October 1, 1991.

[113] Section was added by sec. 1106(a)(1) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1750). Sec. 1502(a)(14)(A) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 503) added subsec. (a) designation and catchline. Sec. 1084(b)(1)(A) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2060) struck out subsec. (a) designation and catchline of "CERTIFICATION REQUIRED".

[114] Sec. 1084(b)(1)(B) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2060) struck out "congressional committees specified in subsection (b)" and inserted in lieu thereof "congressional defense committees". Previously, sec. 1502(a)(14)(B) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 503) struck out "to the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives" and inserted in lieu thereof "to the congressional committees specified in subsection (b)".

other department or agency is in the national security interest of the United States.

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CHAPTER 134—MISCELLANEOUS ADMINISTRATIVE PROVISIONS

SUBCHAPTER I—MISCELLANEOUS AUTHORITIES, PROHIBITIONS, AND LIMITATIONS ON THE USE OF APPROPRIATED FUNDS

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§ 2249a.[115] Prohibition on providing financial assistance to terrorist countries

(a) PROHIBITION.—Funds available to the Department of Defense may not be obligated or expended to provide financial assistance to—

(1) any country with respect to which the Secretary of State has made a determination under section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)(A)); [116]

(2) any country identified in the latest report submitted to Congress under section 140 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f), as providing significant support for international terrorism; or

(3) any other country that, as determined by the President—

(A) grants sanctuary from prosecution to any individual or group that has committed an act of international terrorism; or

(B) otherwise supports international terrorism.

(b) WAIVER.—(1) The President may waive the application of subsection (a) to a country if the President determines—

(A) that it is in the national security interests of the United States to do so; or

(B) that the waiver should be granted for humanitarian reasons.

(2) The President shall—

(A) notify the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on Armed Services [117] and the Committee on International Relations of the House of Representatives at least 15 days before the waiver takes effect; and

(B) publish a notice of the waiver in the Federal Register.

Sec. 1084(b)(1)(C) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2060) struck out subsec. (b), which, as amended, had designated congressional committees as the Committee on Armed Services and the Committee on Appropriations of the Senate, and the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.

[115] Added by sec. 1341(a) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 485).

[116] Sec. 1073(a)(40) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1902) struck out "50 App. 2405(j)" and inserted in lieu thereof "50 U.S.C. App. 2405(j)(1)(A)".

[117] Sec. 1067(1) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 774) struck out "Committee on National Security" and inserted in lieu thereof "Committee on Armed Services".

(c) DEFINITION.—In this section, the term "international terrorism" has the meaning given that term in section 140(d) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f(d)).

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§ 2249c.[118] Authority to use appropriated funds for costs of attendance of foreign visitors under Regional Defense Counterterrorism Fellowship Program

(a) AUTHORITY TO USE FUNDS.—Under regulations prescribed by the Secretary of Defense, funds appropriated to the Department of Defense may be used to pay any costs associated with the attendance of foreign military officers, ministry of defense officials, or security officials at United States military educational institutions, regional centers, conferences, seminars, or other training programs conducted under the Regional Defense Counterterrorism Fellowship Program, including costs of transportation and travel and subsistence costs.

(b) LIMITATION.—The total amount of funds used under the authority in subsection (a) in any fiscal year may not exceed $ 20,000,000.

(c) ANNUAL REPORT.—Not later than December 1 of each year, the Secretary of Defense shall submit to Congress a report on the administration of this section during the fiscal year ended in such year. The report shall include the following matters:

(1) A complete accounting of the expenditure of appropriated funds for purposes authorized under subsection (a), including—

(A) the countries of the foreign officers and officials for whom costs were paid; and

(B) for each such country, the total amount of the costs paid.

(2) The training courses attended by the foreign officers and officials, including a specification of which, if any, courses were conducted in foreign countries.

(3) An assessment of the effectiveness of the Regional Defense Counterterrorism Fellowship Program in increasing the cooperation of the governments of foreign countries with the United States in the global war on terrorism.

(4) A discussion of any actions being taken to improve the program.

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CHAPTER 137—PROCUREMENT GENERALLY

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[118] Added by sec. 1221(a) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1651). Sec. 1221(b) of that Act required the Secretary of Defense to notify Congress, not later than December 1, 2003, of the issuance and prescription of regulations to implement this section.

§ 2327.[119] Contracts: consideration of national security objectives

(a) DISCLOSURE OF OWNERSHIP OR CONTROL BY A FOREIGN GOVERNMENT.—The head of an agency shall require a firm or a subsidiary of a firm that submits a bid or proposal in response to a solicitation issued by the Department of Defense to disclose in that bid or proposal any significant interest in such firm or subsidiary (or, in the case of a subsidiary, in the firm that owns the subsidiary) that is owned or controlled (whether directly or indirectly) by a foreign government or an agent or instrumentality of a foreign government, if such foreign government is the government of a country that the Secretary of State determines under section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. 2405(j)(1)(A)) has repeatedly provided support for acts of international terrorism.

(b) PROHIBITION OF ENTERING INTO CONTRACTS AGAINST THE INTERESTS OF THE UNITED STATES.—Except as provided in subsection (c), the head of an agency may not enter into a contract with a firm or a subsidiary of a firm if—

(1) a foreign government owns or controls (whether directly or indirectly) a significant interest in such firm or subsidiary (or, in case of a subsidiary, in the firm that owns the subsidiary); and

(2) such foreign government is the government of a country that the Secretary of State determines under section 6(j)(1)(A) of the Export Administration Act of 1797 (50 U.S.C. 2405(j)(1)(A)) has repeatedly provided support for acts of international terrorism.

(c) WAIVER.—(1)(A) If the Secretary of Defense determines under paragraph (2) that entering into a contract with a firm or a subsidiary of a firm described in subsection (b) is not inconsistent with the national security objectives of the United States, the head of an agency may enter into a contract with such firm or subsidiary if in the best interests of the Government.[120]

(B) The Secretary shall maintain records of each contract entered into by reason of subparagraph (A). Such records[121] shall include the following:

(i) The identify of the foreign government concerned.

(ii) The nature of the contract.

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[119] Sec. 2327 was added by sec. 951 of Public Law 99–661 (100 Stat. 3816). See also sec. 843 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1720), requiring reports by defense contractors of dealings with terrorist countries.

[120] Sec. 1031(a)(16)(A) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1597) struck out "after the date on which such head of an agency submits to Congress a report on the contract" and inserted in lieu thereof "if in the best interests of the Government".

[121] Sec. 1031(a)(16)(B) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1597) struck out "A report under subparagraph (A)" and inserted in lieu thereof "The Secretary shall maintain records of each contract entered into by reason of subparagraph (A). Such records". Sec. 1031(a)(16)(C) of that Act struck out subpara. (C), which had read as follows:

"(C) After the head of an agency submits a report to Congress under subparagraph (A) with respect to a firm or a subsidiary, such head of an agency is not required to submit a report before entering into any subsequent contract with such firm or subsidiary unless the information required to be included in such report under subparagraph (B) has materially changed since the submission of the previous report.".

(iii) The extent of ownership or control of the firm or subsidiary concerned (or, if appropriate in the case of a subsidiary, of the firm that owns the subsidiary) by the foreign government concerned or the agency or instrumentality of such foreign government.

(iv) The reasons for entering into the contract.

(2) Upon the request of the head of an agency, the Secretary of Defense shall determine whether entering into a contract with a firm or subsidiary described in subsection (b) is inconsistent with the national security objectives of the United States. In making such a determination, the Secretary of Defense shall consider the following:

(A) The relationship of the United States with the foreign government concerned.

(B) The obligations of the United States under international agreements.

(C) The extent of the ownership or control of the firm or subsidiary (or, if appropriate in the case of a subsidiary, of the firm that owns the subsidiary) by the foreign government or an agent or instrumentality of the foreign government.

(D) Whether payments made, or information made available, to the firm or subsidiary under the contract could be used for purposes hostile to the interests of the United States.

(d)[122] LIST OF FIRMS SUBJECT TO PROHIBITION.—(1) The Secretary of Defense shall develop and maintain a list of all firms and subsidiaries of firms that the Secretary has identified as being subject to the prohibition in subsection (b).

(2)(A) A person may request the Secretary to include on the list maintained under paragraph (1) any firm or subsidiary of a firm that the person believes to be owned or controlled by a foreign government described in subsection (b)(2). Upon receipt of such a request, the Secretary shall determine whether the conditions in paragraphs (1) and (2) of subsection (b) exist in the case of that firm or subsidiary. If the Secretary determines that such conditions do exist, the Secretary shall include the firm or subsidiary on the list.

(B) A firm or subsidiary of a firm included on the list may request the Secretary to remove such firm or subsidiary from the list on the basis that it has been erroneously included on the list or its ownership circumstances have significantly changed. Upon receipt of such a request, the Secretary shall determine whether the conditions in paragraphs (1) and (2) of subsection (b) exist in the case of that firm or subsidiary. If the Secretary determines that such conditions do not exist, the Secretary shall remove the firm or subsidiary from the list.

(C) The Secretary shall establish procedures to carry out this paragraph.

(3) The head of an agency shall prohibit each firm or subsidiary of a firm awarded a contract by the agency from entering into a subcontract under that contract in an amount in excess of $25,000 with a firm or subsidiary included on the list maintained under

[122] Sec. 843 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1844) redesignated subsecs. (d) and (e) as subsecs. (f) and (g), and added new subsecs. (d) and (e).

paragraph (1) unless there is a compelling reason to do so. In the case of any subcontract requiring consent by the head of an agency, the head of the agency shall not consent to the award of the subcontract to a firm or subsidiary included on such list unless there is a compelling reason for such approval.

(e)[122] DISTRIBUTION OF LIST.—The Administrator of General Services shall ensure that the list developed and maintained under subsection (d) is made available to Federal agencies and the public in the same manner and to the same extent as the list of suspended and debarred contractors compiled pursuant to subpart 9.4 of the Federal Acquisition Regulation.

(f)[122] APPLICABILITY.—(1) This section does not apply to a contract for an amount less than $100,000.

(2) This section does not apply to the Coast Guard or the National Aeronautics and Space Administration.

(g)[122] REGULATIONS.—The Secretary of Defense, after consultation with the Secretary of State, shall prescribe regulations to carry out this section. Such regulations shall include a definition of the term "significant interest."

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CHAPTER 138—COOPERATIVE AGREEMENTS WITH NATO ALLIES AND OTHER COUNTRIES

SUBCHAPTER I—ACQUISITION AND CROSS-SERVICING AGREEMENTS

§ 2341.[123] Authority to acquire logistic support, supplies, and services for elements of the armed forces deployed outside the United States[124]

Subject to section 2343[125] of this title and subject to the availability of appropriations, the Secretary of Defense may—

(1)[126] acquire from the Governments of North Atlantic Treaty Organization countries,[127] from North Atlantic Treaty Organization[128] subsidiary bodies, and from the United Nations Organization or any regional international organization of which the United States is a member[127] logistic support, supplies, and services for elements of the armed forces deployed outside the United States;[129] and

[123] Added as sec. 2321 by sec. 2(a) of Public Law 96–323 (94 Stat. 1016). Redesignated as sec. 2341 by sec. 1304(a)(1) of Public Law 99–145 (99 Stat. 741).

[124] Sec. 1104(a) of Public Law 99–661 (100 Stat. 3963) struck out "United States armed forces in Europe" from the catchline, and inserted in lieu thereof "elements of the armed forces deployed outside the United States".

[125] Sec. 1304(a)(4) of Public Law 99–145 (99 Stat. 741) struck out "section 2323" and inserted in lieu thereof "section 2343".

[126] Sec. 1104(a) of Public Law 99–661 (100 Stat. 3963) restated the text generally, designated it as para. (1), and added para. (2).

[127] Sec. 1317(a) of Public Law 103–337 (108 Stat. 2899) struck out "and" and inserted a comma after "countries"; and added ", and from the United Nations Organization or any regional international organization of which the United States is a member" after "subsidiary bodies".

[128] Sec. 1312(a)(2) of Public Law 102–484 (106 Stat. 2547) struck out "in which elements of the armed forces are deployed (or are to be deployed)" after "North Atlantic Treaty Organization".

[129] Sec. 1312(a)(2) of Public Law 102–484 (106 Stat. 2547) struck out "in such country or in the military region in which such country is located" and inserted in lieu thereof "outside the United States".

(2)[126] acquire from any government not a member of the North Atlantic Treaty Organization logistic support, supplies, and services for elements of the armed forces deployed (or to be deployed) outside the United States if that country—

(A) has a defense alliance with the United States;

(B) permits the stationing of members of the armed forces in such country or the homeporting of naval vessels of the United States in such country;

(C) has agreed to preposition materiel of the United States in such country; or

(D) serves as the host country to military exercises which include elements of the armed forces or permits other military operations by the armed forces in such country.

§ 2342.[130] Cross-servicing[131] agreements

(a)(1) Subject to section 2343 of this title and to the availability of appropriations, and after consultation with the Secretary of State, the Secretary of Defense may enter into an agreement described in paragraph (2) with any of the following:[132]

(A) The government of a North Atlantic Treaty Organization country.

(B) A subsidiary body of the North Atlantic Treaty Organization.

(C) The United Nations Organization or any regional international organization of which the United States is a member.

(D) The government of a country not a member of the North Atlantic Treaty Organization but which is designated by the Secretary of Defense, subject to the limitations prescribed in subsection (b), as a government with which the Secretary may enter into agreements under this section.

(2) An agreement referred to in paragraph (1) is an agreement under which the United States agrees to provide logistic support, supplies, and services to military forces of a country or organization[133] referred to in paragraph (1) in return for the reciprocal provisions of logistic support, supplies, and services by such government or organization[133] to elements of the armed forces.

(b) The Secretary of Defense may not designate a country for an agreement under this section unless—[134]

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[130] Added as sec. 2322 by sec. 2(a) of Public Law 96–323 (94 Stat. 1016). Redesignated as sec. 2342 by sec. 1304(a)(1) of Public Law 99–145 (99 Stat. 741). Sec. 1104(a) of Public Law 99–661 (100 Stat. 3963) amended and restated subsec. (a), designating para. (1), added paras. (2) and (3) of subsec. (a), and added subsecs. (b) through (d). Subsequently, sec. 1451(a) of Public Law 101–510 (104 Stat. 1692) further amended and restated subsec. (a) in two paragraphs.

[131] Sec. 1231(9) of Public Law 100–180 (101 Stat. 1160) struck out "Cross servicing" and inserted in lieu thereof "Cross-servicing" in the section catchline.

[132] Sec. 1317(b) of Public Law 103–337 (108 Stat. 2900) struck out "with—" and inserted in lieu thereof "with any of the following:"; substituted "The Government" for the government" and a period for a semicolon in subpara. (A); substituted "A subsidiary" for "a subsidiary", and "Organization" for "organization" in subpara. (B); added subpara. (C); redesignated former subpara. (C) as subpara. (D); and substituted "The government" for "the government" in subpara. (D).

[133] Sec. 1317(b)(2) of Public Law 103–337 (108 Stat. 2900) struck out "subsidiary body" and inserted in lieu thereof "organization".

[134] Sec. 1502(a)(16) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 504) struck out "section—" preceding para. (1), and inserted in lieu thereof "section unless—"; struck out "unless" at the beginning of para. (1); and in para. (2), struck out "notifies the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives" and inserted in lieu thereof "the Secretary submits to the Committee on Armed Services and the

(1)[134] the Secretary, after consultation with the Secretary of State, determines that the designation of such country for such purpose is in the interest of the national security of the United States; and

(2) in the case of a country which is not a member of the North Atlantic Treaty Organization, the Secretary submits to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on Armed Services and the Committee on International Relations of the House of Representatives notice of the intended designation[134] at least 30 days before the date on which such country is designated by the Secretary under subsection (a).

(c) The Secretary of Defense may not use the authority of this subchapter[135] to procure from any foreign government or international organization[136] any goods or services reasonably available from United States commercial sources.

(d) The Secretary shall prescribe regulations to ensure that contracts entered into under this subchapter[135] are free from self-dealing, bribery, and conflict of interests.

§ 2343.[137] Waiver of applicability of certain laws

Sections 2207, 2304(a), 2306(a), 2306(b), 2306(e), 2306a, and 2313 of this title and[138] section 3741 of the Revised Statutes (41 U.S.C. 22)[138] shall not apply to acquisitions made under the authority of section 2341 of this title or to agreements entered into under section 2342 of this title.

§ 2344.[139] Methods of payment for acquisitions and transfers by the United States

(a) Logistics support, supplies, and services may be acquired or transferred by the United States under the authority of this subchapter[140] on a reimbursement basis or by replacement-in-kind or exchange of supplies or services of an equal value.[140]

(b)(1) In entering into agreements with the Government of another North Atlantic Treaty Organization country or other foreign

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Committee on Foreign Relations of the Senate and the Committee on National Security and the Committee on International Relations of the House of Representatives notice of the intended designation". Sec. 1067(1) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 774) subsequently struck out "Committee on National Security" and inserted in lieu thereof "Committee on Armed Services".

[135] Sec. 931(e)(1) of Public Law 101–189 (103 Stat. 1535) struck out "this chapter" and inserted in lieu thereof "this subchapter".

[136] Sec. 1317(b)(3) of Public Law 103–337 (108 Stat. 2900) struck out "as a routine or normal source" and inserted in lieu thereof "organization".

[137] Added as sec. 2323 by sec. 2(a) of Public Law 96–323 (94 Stat. 1016). Redesignated as sec. 2343 by sec. 1304(a)(1) of Public Law 99–145 (99 Stat. 741). The section was substantially amended and restated by sec. 1317(c) of Public Law 103–337.

The list of sections in title 10 for which applicability has been waived has been amended several times by: secs. 961(b) and 1304(a)(5) of Public Law 99–145 (99 Stat. 703, 741); sec. 7(g)(2) of Public Law 100–26 (101 Stat. 282); and sec. 1233(d) of Public Law 100–456 (102 Stat. 1535).

[138] Sec. 1061(a)(12) of Public Law 102–190 (105 Stat. 1473) inserted "and" after "this title", and struck out "and section 719 of the Defense Production Act of 1950 (50 U.S.C. App. 2168) before "shall not apply".

[139] Added as sec. 2324 by sec. 2(a) of Public Law 96–323 (94 Stat. 1017). Redesignated as sec. 2344 by sec. 1304(a)(1) of Public Law 99–145 (99 Stat. 741).

[140] Secs. 931(e)(1) and 938(a) of Public Law 101–189 (103 Stat. 1535, 1539) substituted "this subchapter" for "this chapter", and "equal value" in lieu of "identical or substantially identical nature".

country[141] for the acquisition or transfer of logistic support, supplies, and services on a reimbursement basis, the Secretary of Defense shall negotiate for adoption of the following pricing principles for reciprocal application:

(A) The price charged by a supplying country for logistics support, supplies, and services specifically procured by the supplying country from its contractors for a recipient country shall be no less favorable than the price for identical items or services charged by such contractors to the armed forces of the supplying country, taking into account price differentials due to delivery schedules, points of delivery, and other similar considerations.

(B) The price charged a recipient country for supplies furnished by a supplying country from its inventory, and the price charged a recipient country for logistics support and services furnished by the officers, employees, or governmental agencies of a supplying country, shall be the same as the price charged for identical supplies, support, or services acquired by an armed force of the supplying country from such governmental sources.

(2) To the extent that the Secretary of Defense is unable to obtain mutual acceptance by the other country involved of the reciprocal pricing principles for reimbursable transactions set forth in paragraph (1)—

(A) the United States may not acquire from such country any logistic support, supply, or service not governed by such reciprocal pricing principles unless the United States forces commander acquiring such support, supply, or service determines (after price analysis) that the price thereof is fair and reasonable; and

(B) transfers by the United States to such country under this subchapter[142] of any logistic support, supply, or service that is not governed by such reciprocal pricing principles shall be subject to the pricing provisions of the Arms Export Control Act (22 U.S.C. 2751 et seq.).

(3) To the extent that indirect costs (including charges for plant and production equipment), administrative surcharges, and contract administration costs with respect to any North Atlantic Treaty Organization country or other foreign country[141] are not waived by operation of the reciprocal pricing principles of paragraph (1), the Secretary of Defense may, on a reciprocal basis, agree to waive such costs.

(4) The pricing principles set forth in paragraph (2) and the waiver authority provided in paragraph (3) shall also apply to agreements with North Atlantic Treaty Organization subsidiary bodies and the United Nations Organization or any regional international organization of which the United States is a member[143] under this subchapter.

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[141] Sec. 1104(b) of Public Law 99–661 (100 Stat. 3964) inserted "or other foreign country" after "country" in subsec. (b), paras. (1) and (3).

[142] Originally enacted as "this Act". Amended to read "this chapter" by sec. 11(a)(8) of Public Law 97–22 (95 Stat. 138); further amended to read "this subchapter" by sec. 931(e)(1) of Public Law 101–189 (103 Stat. 1535).

[143] Sec. 1317(d) of Public Law 103–337 (108 Stat. 2900) inserted "and the United Nations Organization or any regional international organization of which the United States is a member".

(c)[144] In acquiring or transferring logistics support, supplies, or services under the authority of this subchapter[145] by exchange of supplies or services, the Secretary of Defense may not agree to or carry out the following:

(1) Transfers in exchange for property the acquisition of which by the Department of Defense is prohibited by law.

(2) Transfers of source, byproduct, or special nuclear materials or any other material, article, data, or thing of value the transfer of which is subject to the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

(3) Transfers of chemical munitions.

§ 2345.[146] Liquidation of accrued credits and liabilities

(a)[147] Credits and liabilities of the United States accrued as a result of acquisitions and transfers of logistic support, supplies, and services under the authority of this subchapter[148] shall be liquidated not less often than once every 12 months[149] by direct payment to the entity supplying such support, supplies, or services by the entity receiving such support, supplies, or services.

(b)[147] Payment-in-kind or exchange entitlements accrued as a result of acquisitions and transfers of logistic support, supplies, and services under authority of this subchapter[148] shall be satisfied within 12 months after the date of the delivery of the logistic support, supplies, or services.

§ 2346.[150] Crediting of receipts

Any receipt of the United States as a result of an agreement entered into under this subchapter[151] shall be credited, at the option of the Secretary of Defense, to (1) the appropriation, fund, or account used in incurring the obligation, or (2) an appropriate appropriation, fund, or account currently available for the purposes for which the expenditures were made.

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[144] Sec. 938(b) of Public Law 101–189 (103 Stat. 1539) added subsec. (c).

[145] Sec. 701(f)(2) of Public Law 102–25 (105 Stat. 115) struck out "chapter" and inserted in lieu thereof "subchapter".

[146] Added as sec. 2325 by sec. 2(a) of Public Law 96–323 (94 Stat. 1016). Redesignated as sec. 2345 by sec. 1304(a)(1) of Public Law 99–145 (99 Stat. 741).

[147] Sec. 1104(c) of Public Law 99–661 (100 Stat. 3965) added subsec. designation "(a)" and added subsec. (b).

[148] Sec. 931(e)(1) of Public Law 101–189 (103 Stat. 1535) substituted "this subchapter" for "this chapter".

[149] Sec. 1317(e) of Public Law 103–337 (108 Stat. 2900) struck out "three months" and inserted in lieu thereof "12 months".

[150] Added as sec. 2326 by sec. 2(a) of Public Law 96–323 (94 Stat. 1016). Redesignated as sec. 2346 by sec. 1304(a)(1) of Public Law 99–145 (99 Stat. 741). Sec. 1317(f) of Public Law 103–337 (108 Stat. 2900) substantially amended and restated this section.

[151] Sec. 931(e)(1) of Public Law 101–189 (103 Stat. 1535) substituted "this subchapter" for "this chapter".

§ 2347.[152] Limitation on amounts that may be obligated or accrued by the United States

(a)(1)[153] Except during a period of active hostilities involving the armed forces,[154] the total amount of reimbursable liabilities that the United States may accrue under this subchapter[155] (before the computation of offsetting balances) with other member countries of the North Atlantic Treaty Organization, subsidiary bodies of the North Atlantic Treaty Organization,[154] or from the United Nations Organization or any regional international organization of which the United States is a member may not exceed $200,000,000[156] in any fiscal year, and of such amount not more than $50,000,000 in liabilities may be accrued for the acquisition of supplies (other than petroleum, oils, and lubricants).

(2)[157] Except during a period of active hostilities involving the armed forces, the total amount of reimbursable liabilities that the United States may accrue under this subchapter[155] (before the computation of offsetting balances) with a country which is not a member of the North Atlantic Treaty Organization, but with which the United States has one or more acquisition or cross-servicing agreements, may not exceed $60,000,000[158] in any fiscal year, and of such amount not more than $20,000,000[159] in liabilities may be accrued for the acquisition of supplies (other than petroleum, oils, and lubricants). The $60,000,000[158] limitation specified in this paragraph is in addition to the limitation specified in paragraph (1).

(b)(1)[160] Except during a period of active hostilities involving the armed forces,[161] the total amount of reimbursable credits that the United States may accrue under this subchapter[155] (before the

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[152] Added as sec. 2327 by sec. 2(a) of Public Law 96–323 (94 Stat. 1016). Redesignated as sec. 2347 by sec. 1304(a)(1) of Public Law 99–145 (99 Stat. 741).

[153] Sec. 1104(d)(1) of Public Law 99–661 (100 Stat. 3965) added para. designation "(1)", and added para. (2).

[154] Sec. 1312(b)(1) of Public Law 102–484 (106 Stat. 2547) struck out "North Atlantic Treaty Organization" and inserted in lieu thereof "armed forces"; and inserted "with other member countries of the North Atlantic Treaty Organization and subsidiary bodies of the North Atlantic Treaty Organization" after the parentheses. Sec. 1317(g)(1) of Public Law 103–337 (108 Stat. 2901) subsequently struck out "Organization and subsidiary" and inserted in lieu thereof "Organization, subsidiary", and added "or from the United Nations Organization or any regional international organization of which the United States is a member" after "Treaty Organization".

[155] Sec. 931(e)(1) of Public Law 101–189 (103 Stat. 1535) substituted "this subchapter" for "this chapter" throughout the section.

[156] Sec. 1001 of Public Law 100–456 (102 Stat. 2037) struck out "$100,000,000" and inserted in lieu thereof "$150,000,000". Sec. 1317(g)(1) of Public Law 103–337 (108 Stat. 2901) raised this amount to $200,000,000.

[157] In para. (2), sec. 1312(b)(2) of Public Law 102–484 (106 Stat. 2547) substituted "involving the armed forces, the total amount of reimbursable liabilities that the United States may accrue under this subchapter (before the computation of offsetting balances) with" in lieu of "in the military region affecting" and struck out "the total amount of reimbursable liabilities that the United States may accrue under this subchapter (before the computation of offsetting balances) with such country" after "cross-servicing agreements,".

[158] Sec. 1317(g)(2) of Public Law 103–337 (108 Stat. 2901) struck out "$10,000,000" and inserted in lieu thereof "$60,000,000".

[159] Sec. 1317(g)(2) of Public Law 103–337 (108 Stat. 2901) substituted "$20,000,000" for "$2,500,000".

[160] Sec. 1104(d)(2) of Public Law 99–661 (100 Stat. 3965) added para. designation "(1)", and added para. (2).

[161] Sec. 1312(b)(3) of Public Law 102–484 (106 Stat. 2547) struck out "North Atlantic Treaty Organization" and inserted in lieu thereof "armed forces"; and inserted "with other member countries of the North Atlantic Treaty Organization and subsidiary bodies of the North Atlantic Treaty Organization" after the parentheses. Sec. 1317(g)(3) of Public Law 103–337 (108 Stat. 2901) subsequently struck out "Organization and subsidiary" and inserted in lieu thereof "Organization, subsidiary", and added "or from the United Nations Organization or any regional international organization of which the United States is a member".

computation of offsetting balances) with other member countries of the North Atlantic Treaty Organization, subsidiary bodies of the North Atlantic Treaty Organization,[161] or from the United Nations Organization or any regional international organization of which the United States is a member may not exceed $150,000,000[162] in any fiscal year.

(2) Except during a period of active hostilities involving the armed forces,[163] the total amount of reimbursable credits that the United States may accrue under this subchapter[155] (before the computation of offsetting balances) with a country which is not a member of the North Atlantic Treaty Organization, but with which the United States has one or more acquisition or cross-servicing agreements[164] may not exceed $75,000,000[165] in any fiscal year. Such limitation specified in this paragraph is in addition to the limitation specified in paragraph (1).

(c)[166] When the armed forces are involved in a contingency operation or in a non-combat operation (including an operation in support of the provision of humanitarian or foreign disaster assistance or in support of peacekeeping operations under chapter VI or VII of the Charter of the United Nations), the restrictions in subsections (a) and (b) are waived for the purposes and duration of that operation.

§ 2348.[167] Inventories of supplies not to be increased

Inventories of supplies for elements of the armed forces may not be increased for the purpose of transferring supplies under the authority of this subchapter.[168]

§ 2349.[169] Overseas Workload Program

(a) IN GENERAL.—A firm of any member nation of the North Atlantic Treaty Organization or of any major non-NATO ally shall be eligible to bid on any contract for the maintenance, repair, or overhaul of equipment of the Department of Defense located outside the United States to be awarded under competitive procedures as part

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[162] Sec. 1317(g)(3) of Public Law 103–337 (108 Stat. 2901) struck out "$100,000,000" and inserted in lieu thereof "$150,000,000".

[163] Sec. 1312(b)(4)(A) of Public Law 102–484 (106 Stat. 2547) struck out "in the military region affecting a country referred to in paragraph (1)" and inserted in lieu thereof "involving the armed forces".

[164] Sec. 1312(b)(4)(B) of Public Law 102–484 (106 Stat. 2547) struck out "from such country (before computation of offsetting balances), and inserted in lieu thereof "(before the computation of offsetting balances) with a country which is not a member of the North Atlantic Treaty Organization, but with which the United States has one or more acquisition or cross-servicing agreements".

[165] Sec. 1317(g)(4) of Public Law 103–337 (108 Stat. 2901) struck out "$10,000,000" and inserted in lieu thereof "$75,000,000".

[166] Sec. 1317(g)(5) of Public Law 103–337 (108 Stat. 2901) added subsec. (c).

[167] Added as sec. 2328 by sec. 2(a) of Public Law 96–323 (94 Stat. 1018). Redesignated as sec. 2348 by sec. 1304(a)(1) of Public Law 99–145 (99 Stat. 741).

[168] Originally enacted as "this Act". Amended to read "this chapter" by sec. 11(a)(8) of Public Law 97–22 (95 Stat. 138); further amended to read "this subchapter" by sec. 931(e)(1) of Public Law 101–189 (103 Stat. 1535).

Sec. 1104(e) of Public Law 99–661 (100 Stat. 3965) struck out "to military forces of any North Atlantic Treaty Organization country or any North Atlantic Treaty Organization subsidiary body" after "chapter".

Sec. 931(e)(1) of Public Law 101–189 (103 Stat. 1535) substituted "this subchapter" for "this chapter".

[169] Added by sec. 1431(a)(1) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1832).

of the program of the Department of Defense known as the Overseas Workload Program.

(b) SITE OF PERFORMANCE.—A contract awarded to a firm described in subsection (a) may be performed in the theater in which the equipment is normally located or in the country in which the firm is located.

(c) EXCEPTIONS.—The Secretary of a military department may restrict the geographic region in which a contract referred to in subsection (a) may be performed if the Secretary determines that performance of the contract outside that specific region—

(1) could adversely affect the military preparedness of the armed forces; or

(2) would violate the terms of an international agreement to which the United States is a party.

(d) DEFINITION.—In this section, the term "major non-NATO ally" has the meaning given that term in section 2350a(i)(2)[170] of this title.

§ 2349a.[171] Annual report on non-NATO agreements

(a) REPORT.—The Secretary of Defense shall submit to Congress, not later than January 15 of each of 1996, 1997, 1998, 1999, and 2000, a report covering non-NATO cross-servicing and acquisition actions in effect during the preceding fiscal year.

(b) MATTERS TO BE INCLUDED.—Each such report shall set forth in detail the following with respect to the preceding fiscal year:

(1) The total dollar amounts involved.

(2) A description of any services and equipment provided or received through those actions.

(3) A description of any equipment provided through those actions that is not returned.

(4) The volume of credits and liabilities accrued and liquidated.

(c) NON-NATO AGREEMENTS.—For purposes of this section, a non-NATO cross-servicing and acquisition agreement is a cross-servicing and acquisition agreement under this subchapter that involves countries or organizations other than North Atlantic Treaty Organization countries or subsidiary bodies.

§ 2350.[172] Definitions

In this subchapter:[173]

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[170] Sec. 1084(d)(18) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2062) struck out "section 2350a(i)(3)" and inserted in lieu thereof "section 2350a(i)(2)".

[171] Added by sec. 1317(i)(1) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2902).

[172] Added as sec. 2331 by sec. 2(a) of Public Law 96–323 (94 Stat. 1016). Redesignated as sec. 2350 by sec. 1304(a)(1) of Public Law 99–145 (99 Stat. 741). Sec. 7(k)(2) of Public Law 100–26 (101 Stat. 284) made technical corrections throughout the section.

[173] Sec. 931(e)(1) of Public Law 101–189 (103 Stat. 1535) substituted "this subchapter" for "this chapter".

(1)[174] The term "logistic support, supplies, and services" means food, billeting, transportation (including airlift), petroleum, oils, lubricants, clothing, communications services, medical services, ammunition, base operations support (and construction incident to base operations support), storage services, use of facilities, training services, spare parts and components, repair and maintenance services, calibration services, and port services. Such term includes temporary use of general purpose vehicles and other nonlethal items of military equipment which are not designated as significant military equipment on the United States Munitions List promulgated[175] pursuant to section 38(a)(1) of the Arms Export Control Act.

(2) The term "North Atlantic Treaty Organization subsidiary bodies" means—

(A) any organization within the meaning of the term "subsidiary bodies" in article I of the multilateral treaty on the Status of the North Atlantic Treaty Organisation, National Representatives and International Staff, signed at Ottawa on September 20, 1951 (TIAS 2992; 5 UST 1087); and

(B) any international military headquarters or organization to which the Protocol on the Status of International Military Headquarters Set Up Pursuant to the North Atlantic Treaty, signed at Paris on August 28, 1952 (TIAS 2978; 5 UST 870), applies.

(3)[176] The term "military region" means the geographical area of responsibility assigned to the commander of a unified combatant command (excluding Europe and adjacent waters).

(4)[177] The term "transfer" means selling (whether for payment in currency, replacement-in-kind, or exchange of supplies or services of equal value), leasing, loaning, or otherwise temporarily providing logistic support, supplies, and services under the terms of a cross-servicing agreement.

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[174] Sec. 1317(h)(1) of Public Law 103–337 (108 stat. 2901) inserted "(including airlift)" after "transportation", "calibration services," after "maintenance services,", and "Such term includes temporary use of general purpose vehicles and other items of military equipment not designated as part of the United States Munitions List pursuant to section 38(a)(1) of the Arms Export Control Act." at end.

[175] Sec. 1222 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1937) struck out "other items of military equipment not designated as part of the United States Munitions List" and inserted in lieu thereof "other nonlethal items of military equipment which are not designated as significant military equipment on the United States Munitions List promulgated".

[176] Sec. 1104(f) of Public Law 99–661 (100 Stat. 3965) added para. (3).

[177] Sec. 1317(h) of Public Law 103–337 (108 Stat. 2901) added para. (4).

SUBCHAPTER II—OTHER COOPERATIVE AGREEMENTS

§ 2350a.[178] Cooperative research and development agreements: NATO organizations; allied and friendly foreign countries

(a) AUTHORITY TO ENGAGE IN COOPERATIVE R&D PROJECTS.—(1)[179] The Secretary of Defense may enter into a memorandum of understanding (or other formal agreement) with one or more countries or organizations referred to in paragraph (2)[180] for the purpose of conducting cooperative research and development projects on defense equipment and munitions.

(2)[181] The countries and organizations with which the Secretary may enter into a memorandum of agreement (or other formal agreement) under paragraph (1) are as follows:

(A) The North Atlantic Treaty Organization.

(B) A NATO organization.

(C) A member nation of the North Atlantic Treaty Organization.

(D) A major non-NATO ally.

(E) Any other friendly foreign country.

(3)[182] If such a memorandum of understanding (or other formal agreement) is with a country referred to in subparagraph (E) of paragraph (2), such memorandum (or agreement) may go into effect only after the Secretary submits to the Committees on Armed Services and on Foreign Relations of the Senate and to the Committees on Armed Services and on International Relations of the House of Representatives a report with respect to the proposed memorandum (or agreement) and a period of 30 days has passed after the report has been submitted.

(b) REQUIREMENT THAT PROJECTS IMPROVE CONVENTIONAL DEFENSE CAPABILITIES.—(1) The Secretary of Defense may not enter into a memorandum of understanding (or other formal agreement) to conduct a cooperative research and development project under this section unless the Secretary determines that the proposed project will improve, through the application of emerging technology, the conventional defense capabilities of the North Atlantic

[178] Sec. 2350a was added by sec. 931(a)(2) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1531) with the heading of "**Cooperative research and development projects: allied countries**". Sec. 1212(e) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1250) restated the heading.

[179] Sec. 1212(a)(1)(A) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1248) inserted "(1)".

[180] Sec. 1301(a) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2888) inserted "or NATO organizations" after "major allies of the United States" in subsecs. (a), (e)(2), and (i)(1) of this section. Sec. 1212(a)(1)(B) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1248) subsequently struck out "major allies of the United States or NATO organizations" and inserted in lieu thereof "countries or organizations referred to in paragraph (2)".

[181] Sec. 1212(a)(1)(C) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1248) added para. (2).

[182] Sec. 1212(b) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1249) added para. (3).

Treaty Organization[183] or the common conventional defense capabilities of the United States and a country or organization referred to in subsection (a)(2).[184]

(2) The authority of the Secretary to make a determination under paragraph (1) may only be delegated to the Deputy Secretary of Defense and to one other official of the Department of Defense.[185]

(c) COST SHARING.—Each cooperative research and development project entered into under this section shall require sharing of the costs of the project (including the costs of claims)[186] between the participants on an equitable basis.

(d) RESTRICTIONS ON PROCUREMENT OF EQUIPMENT AND SERVICES.—(1) In order to assure substantial participation on the part of countries and organizations referred to in subsection (a)(2)[187] in cooperative research and development projects, funds made available for such projects may not be used to procure equipment or services from any foreign government, foreign research organization, or other foreign entity.

(2) A country or organization referred to in subsection (a)(2)[188] may not use any military or economic assistance grant, loan, or other funds provided by the United States for the purpose of making the contributions of that country or organization[189] to a cooperative research and development program entered into with the United States under this section.

(e) COOPERATIVE OPPORTUNITIES DOCUMENT.—(1)(A) In order to ensure that opportunities to conduct cooperative research and development projects are considered at an early point during the formal development review process of the Department of Defense in connection with any planned project of the Department, the Under Secretary of Defense for Acquisition, Technology, and Logistics[190]

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[183] Sec. 1212(a)(2)(B) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1248) struck out "(NATO)" after "North Atlantic Treaty Organization".

[184] Sec. 1212(a)(2)(A) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1248) struck out "its major non-NATO allies" and inserted in lieu thereof "a country or organization referred to in subsection (a)(2)".

[185] Sec. 1212(c) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1249) struck out "to the Deputy Secretary of Defense or the Under Secretary of Defense for Acquisition and Technology." and inserted in lieu thereof "to the Deputy Secretary of Defense and to one other official of the Department of Defense.". Previously, sec. 904(d)(1) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1728) added "and Technology" to the Under Secretary's title.

[186] Sec. 843(b)(1) of Public Law 102–484 (106 Stat. 2469) inserted "(including the costs of claims)" after "project", with a stipulation for termination of the amendment. This stipulation was repealed by sec. 1318 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2902).

[187] Sec. 1212(a)(2)(A) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1249) struck out "the major allies of the United States" and inserted in lieu thereof "countries and organizations referred to in subsection (a)(2)".

[188] Sec. 1212(a)(3)(B)(i) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1249) struck out "major ally of the United States" and inserted in lieu thereof "country or organization referred to in subsection (a)(2)".

[189] Sec. 1212(a)(3)(B)(ii) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1249) struck out "that ally's contribution" and inserted in lieu thereof "the contributions of that country or organization".

[190] Sec. 1048(b)(2) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1225) struck out "Under Secretary of Defense for Acquisition and Technology" and inserted in lieu thereof "Under Secretary of Defense for Acquisition, Technology, and Logistics". Previously, sec. 904(d)(1) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1728) added "and Technology" to the Under Secretary's title.

shall prepare an arms cooperation opportunities document with respect to that project for review by the Defense Acquisition Board at formal meetings of the Board.

(B) The Under Secretary shall also prepare an arms cooperation opportunities document for review of each new project for which a document known as a Mission Need Statement is prepared.

(2) An arms cooperation opportunities document referred to in paragraph (1) shall include the following:

(A) A statement indicating whether or not a project similar to the one under consideration by the Department of Defense is in development or production by any country or organization referred to in subsection (a)(2)[191] or NATO organizations.[180]

(B) If a project similar to the one under consideration by the Department of Defense is in development or production by one or more countries and organizations referred to in subsection (a)(2),[192] an assessment by the Under Secretary of Defense for Acquisition, Technology, and Logistics[190] as to whether that project could satisfy, or could be modified in scope so as to satisfy, the military requirements of the project of the United States under consideration by the Department of Defense.

(C) An assessment of the advantages and disadvantages with regard to program timing, developmental and life cycle costs, technology sharing, and Rationalization, Standardization, and Interoperability (RSI) of seeking to structure a cooperative development program with one or more countries and organizations referred to in subsection (a)(2)[193] or NATO organizations.[180]

(D) The recommendation of the Under Secretary as to whether the Department of Defense should explore the feasibility and desirability of a cooperative development program with one or more countries and organizations referred to in subsection (a)(2)[194] or NATO organizations.[180]

(f)[195] * * *

(g) SIDE-BY-SIDE TESTING.—(1) It is the sense of Congress—

(A) that the Secretary of Defense should test conventional defense equipment, munitions, and technologies manufactured and developed by countries referred to in subsection (a)(2)[196]

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[191] Sec. 1212(a)(4)(A) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1249) struck out "one or more of the major allies of the United States" and inserted in lieu thereof "any country or organization referred to in subsection (a)(2)".

[192] Sec. 1212(a)(4)(B) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1249) struck out "major allies of the United States or NATO organizations" and inserted in lieu thereof "countries and organizations referred to in subsection (a)(2)".

[193] Sec. 1212(a)(4)(C) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1249) struck out "major allies of the United States" and inserted in lieu thereof "countries and organizations referred to in subsection (a)(2)".

[194] Sec. 1212(a)(4)(D) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1249) struck out "major allies of the United States" and inserted in lieu thereof "countries and organizations referred to in subsection (a)(2)".

[195] Sec. 1031(a)(17) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1597) struck out subsec. (f), which required the Under Secretary of Defense for Acquisition, Technology, and Logistics to report annually to Congress on cooperative research and development projects under this section.

[196] Sec. 1053 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1471) inserted "and other friendly foreign countries" after "major allies of the United States" in paras. (1)(A) and (4)(A). Subsequently, sec. 1212(a)(5) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1249) struck out "major allies of the United States and other friendly foreign countries" and inserted in lieu thereof "countries referred to in subsection (a)(2)".

to determine the ability of such equipment, munitions, and technologies to satisfy United States military requirements or to correct operational deficiencies; and

(B) that while the testing of nondevelopmental items and items in the late state of the development process are preferred, the testing of equipment, munitions, and technologies may be conducted to determine procurement alternatives.

(2) The Secretary of Defense may acquire equipment, munitions, and technologies of the type described in paragraph (1) for the purpose of conducting the testing described in that paragraph.

(3) The Deputy Director, Defense Research and Engineering (Test and Evaluation) shall notify the Speaker of the House of Representatives and the Committees on Armed Services and on Appropriations of the Senate of the Deputy Director's intent to obligate funds made available to carry out this subsection not less than 30 days before such funds are obligated.

(4)[197] * * * [Repealed—2002]

(h) SECRETARY TO ENCOURAGE SIMILAR PROGRAMS.—The Secretary of Defense shall encourage member nations of the North Atlantic Treaty Organization, major non-NATO allies, and other friendly foreign countries[198] to establish programs similar to the one provided for in this section.

(i) DEFINITIONS.—In this section:

(1) The term "cooperative research and development project" means a project involving joint participation by the United States and one or more countries and organizations referred to in subsection (a)(2)[199] under a memorandum of understanding (or other formal agreement) to carry out a joint research and development program—

(A) to develop new conventional defense equipment and munitions; or

(B) to modify existing military equipment to meet United States military requirements.

(2)[200] The term "major non-NATO ally" means a country (other than a member nation of the North Atlantic Treaty Organization) that is designated as a major non-NATO ally for purposes of this section by the Secretary of Defense with the concurrence of the Secretary of State.

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[197] Sec. 1041(a)(9) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2645), struck out para. (4) of subsec. (g), which had required the Secretary of Defense to report annually to Congress on equipment, munitions, and technologies manufactured and developed by major allies.

[198] Sec. 1212(a)(6) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1249) struck out "major allies of the United States" and inserted in lieu thereof "member nations of the North Atlantic Treaty Organization, major non-NATO allies, and other friendly foreign countries".

[199] Sec. 1212(a)(7)(A) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1249) struck out "major allies of the United States or NATO organizations" and inserted in lieu thereof "countries and organizations referred to in subsection (a)(2)".

[200] Sec. 1212(a)(7)(B) and (C) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1249) struck out para. (2) and redesignated paras. (3) and (4) as paras. (2) and (3), respectively. Former para. (2) had read as follows:

"(2) The term 'major ally of the United States' means—

"(A) a member nation of the North Atlantic Treaty Organization (other than the United States); or

"(B) a major non-NATO ally.".

(3)[201] The term "NATO organization" means any North Atlantic Treaty Organization subsidiary body referred to in section 2350(2) of this title and any other organization of the North Atlantic Treaty Organization.

§ 2350b.[202] Cooperative projects under Arms Export Control Act: acquisition of defense equipment

(a)(1) If the President delegates to the Secretary of Defense the authority to carry out section 27(d) of the Arms Export Control Act (22 U.S.C. 2767(d)), relating to cooperative projects (as defined in such section), the Secretary may utilize his authority under this title in carrying out contracts or obligations incurred under such section.

(2) Except as provided in subsection (c), chapter 137 of this title shall apply to such contracts (referred to in paragraph (1)) entered into by the Secretary of Defense. Except to the extent waived under subsection (c) or some other provision of law, all other provisions of law relating to procurement, if otherwise applicable, shall apply to such contracts entered into by the Secretary of Defense.

(b) When contracting or incurring obligations under section 27(d) of the Arms Export Control Act for cooperative projects, the Secretary of Defense may require subcontracts to be awarded to particular subcontractors in furtherance of the cooperative project.

(c)(1) Subject to paragraph (2), when entering into contracts or incurring obligations under section 27(d) of the Arms Export Control Act outside the United States, the Secretary of Defense may waive with respect to any such contract or subcontract the application of any provision of law, other than a provision of the Arms Export Control Act or section 2304 of this title, that specifically prescribes—[203]

(A) procedures to be followed in the formation of contracts;

(B) terms and conditions to be included in contracts;

(C) requirements for or preferences to be given to goods grown, produced, or manufactured in the United States or in United States Government-owned facilities or for services to be performed in the United States; or

(D) requirements regulating the performance of contracts.

(2) A waiver may not be made under paragraph (1) unless the Secretary determines that the waiver is necessary to ensure that the cooperative project will significantly further standardization, rationalization, and interoperability.

(3) The authority of the Secretary to make waivers under this subsection may be delegated only to the Deputy Secretary of Defense or the Acquisition Executive designated for the Office of the Secretary of Defense.

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[201] Sec. 1301(b) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2888) added this paragraph.

[202] Sec. 2350b was added as 2407 by sec. 1102(b) of the Department of Defense Authorization Act, 1986 (Public Law 99–145; 99 Stat. 710), with the title of "Acquisition of defense equipment under cooperative projects". It was subsequently redesignated as sec. 2350b and retitled by sec. 931(b) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1534). References to "NATO" cooperative projects were removed by sec. 1103 of Public Law 99–661 (100 Stat. 3816).

[203] Sec. 4321(b)(10)(A) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 672) struck out "specifically—" and inserted in lieu thereof "specifically prescribes—", and struck out "prescribe" at the beginning of each of subparas. (A) through (D).

(d)(1) The Secretary of Defense shall notify the Congress each time he requires that a prime contract be awarded to a particular prime contractor or that a subcontract be[204] awarded to a particular subcontractor to comply with a cooperative agreement. The Secretary shall include in each such notice the reason for exercising his authority to designate a particular contractor or subcontractor, as the case may be.

(2) The Secretary shall also notify the Congress each time he exercises a waiver under subsection (c) and shall include in such notice the particular provision or provisions of law that were waived.

(3) A report under this subsection shall be required only to the extent that the information required by this subsection has not been provided in a report made by the President under section 27(e) of the Arms Export Control Act (22 U.S.C. 2767(e)).

(e)(1) In carrying out a cooperative project under section 27 of the Arms Export Control Act, the Secretary of Defense may agree that a participant (other than the United States) or a NATO organization[205] may make a contract for requirements of the United States under the project if the Secretary determines that such a contract will significantly further standardization, rationalization, and interoperability. Except to the extent waived under this section or under any other provision of law, the Secretary shall ensure that such contract will be made on a competitive basis and that United States sources will not be precluded from competing under the contract.

(2) If a participant (other than the United States) in a cooperative project makes a contract on behalf of such project to meet the requirements of the United States, the contract may permit the contracting party to follow its own procedures relating to contracting.

(f) In carrying out such a cooperative project or a NATO organization,[206] the Secretary of Defense may also agree to the disposal of property that is jointly acquired by the members of the project without regard to any laws of the United States applicable to the disposal of property owned by the United States. Disposal of such property may include a transfer of the interest of the United States in such property to one of the other governments participating in the cooperative agreement or the sale of such property. Payment for the transfer or sale of any interest of the United States in any such property shall be made in accordance with the terms of the cooperative agreement.

(g) Nothing in this section shall be construed as authorizing the Secretary of Defense—[207]

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[204] Sec. 4321(b)(10)(B) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 672) struck out "subcontract to be" and inserted in lieu thereof "subcontract be".

[205] Sec. 1335(1) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 484) inserted "or a NATO organization" after "(other than the United States)".

[206] Sec. 1335(2) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 484) struck out "a cooperative project" and inserted in lieu thereof "such a cooperative project or a NATO organization".

[207] Sec. 1084(d)(19) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2062) inserted "the Secretary of Defense" after "authorizing" in subsec. (g), and struck out "the Secretary of Defense" from subsec. (g)(1), following "(1)".

(1)[207] to waive any of the financial management responsibilities administered by the Secretary of the Treasury; or

(2) to waive the cargo preference laws of the United States, including the Military Cargo Preference Act of 1904 (10 U.S.C. 2631) and the Cargo Preference Act of 1954 (46 U.S.C. 1241(b)).

§ 2350c.[208] Cooperative military airlift agreements: allied countries

(a) Subject to the availability of appropriations, and after consultation with the Secretary of State, the Secretary of Defense may enter into cooperative military airlift agreements with the government of any allied country for the transportation of the personnel and cargo of the military forces of that country on aircraft operated by or for the military forces of the United States in return for the reciprocal transportation of the personnel and cargo of the military forces of the United States on aircraft operated by or for the military forces of that allied country. Any such agreement shall include the following terms:

(1) The rate of reimbursement for transportation provided shall be the same for each party and shall be not less than the rate charged to military forces of the United States, as determined by the Secretary of Defense under section 2208(h) of this title.

(2) Credits and liabilities accrued as a result of providing or receiving transportation shall be liquidated[209] as agreed upon by the parties. Liquidation shall be either by direct payment to the country that has provided the greater amount of transportation or by the providing of in-kind transportation services to that country. The liquidation shall occur on a regular basis, but not less often than once every 12 months.

(3) During peacetime, the only military airlift capacity that may be used to provide transportation is that capacity that (A) is not needed to meet the transportation requirements of the military forces of the country providing the transportation, and (B) was not created solely to accommodate the requirements of the military forces of the country receiving the transportation.

(4) Defense articles purchased by an allied country from the United States under the Arms Export Control Act (22 U.S.C. 2751 et seq.) or from a commercial source under the export controls of the Arms Export Control Act may not be transported (for the purpose of delivery incident to the purchase of the defense articles) to the purchasing allied country on aircraft operated by or for the military forces of the United States except at a rate of reimbursement that is equal to the full cost of transportation of the defense articles, as required by section 21(a)(3) of the Arms Export Control Act (22 U.S.C. 2761(a)(3)).

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[208] Sec. 2350c was enacted as sec. 2213 by sec. 1125(a) of the DOD Authorization Act, 1983 (Public Law 97–252; 96 Stat. 757), with the title of "Cooperative military airlift agreements"; and redesignated as sec. 2350c and retitled by sec. 931(b)(2) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1534).

[209] Sec. 1311(a) of Public Law 102–484 (106 Stat. 2547) struck out "not less often than once every 3 months by direct payment to the country that has provided the greater amount of transportation." following "liquidation", and text beginning with "as agreed upon" was inserted in its place.

(b) Subject to the availability of appropriations, and after consultation with the Secretary of State, the Secretary of Defense may enter into nonreciprocal military airlift agreements with North Atlantic Treaty Organization subsidiary bodies for the transportation of the personnel and cargo of such subsidiary bodies on aircraft operated by or for the military forces of the United States. Any such agreement shall be subject to such terms as the Secretary of Defense considers appropriate.

(c) Any amount received by the United States as a result of an agreement entered into under this section shall be credited to applicable appropriations, accounts, and funds of the Department of Defense.

(d)[210] In this section:

(1) The term "allied country" means any of the following:

(A) A country that is a member of the North Atlantic Treaty Organization.

(B) Australia, New Zealand, Japan, and the Republic of Korea.[211]

(C) Any other country designated as an allied country for the purposes of this section by the Secretary of Defense with the concurrence of the Secretary of State.

(2) The term "North Atlantic Treaty Organization subsidiary bodies" has the meaning given to it by section 2331 of this title.

§ 2350d.[212] Cooperative logistic support agreements: NATO countries

(a) GENERAL AUTHORITY.—(1) The Secretary of Defense may enter into bilateral or multilateral agreements known as Weapon System Partnership Agreements with one or more governments of other member countries of the North Atlantic Treaty Organization (NATO) participating in the operation of the NATO Maintenance and Supply Organization. Any such agreement shall be for the purpose of providing cooperative logistics support for the armed forces of the countries which are parties to the agreement. Any such agreement—

(A) shall be entered into pursuant to the terms of the charter of the NATO Maintenance and Supply Organization; and

(B) shall provide for the common logistic support of a specific weapon system common to the participating countries.

(2) Such an agreement may provide for—

(A) the transfer of logistics support, supplies, and services by the United States to the NATO Maintenance and Supply Organization; and

(B) the acquisition of logistics support, supplies, and services by the United States from that Organization.

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[210] Sec. 1222 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (H.R. 5408, enacted by reference in Public Law 106–398; 114 Stat. 1654) struck out subsec. (d) and redesignated subsec. (e) as subsec. (d). Former subsec. (d), as amended, had read as follows: "(d) Notwithstanding subchapter I, the Secretary of Defense may enter into military airlift agreements with allied countries only under the authority of this section.".

[211] Sec. 1311(b) of Public Law 102–484 (106 Stat. 2547) struck out "or New Zealand", and inserted in lieu thereof ", New Zealand, Japan, and the Republic of Korea".

[212] Sec. 931(c) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1534) added sec. 2350d.

(b) AUTHORITY OF SECRETARY.—Under the terms of a Weapon System Partnership Agreement, the Secretary of Defense—

(1) may agree that the NATO Maintenance and Supply Organization may enter into contracts for supply and acquisition of logistics support in Europe for requirements of the United States, to the extent the Secretary determines that the procedures of such Organization governing such supply and acquisition are appropriate; and

(2) may share the costs of set-up charges of facilities for use by the NATO Maintenance and Supply Organization to provide cooperative logistics support and in the costs of establishing a revolving fund for initial acquisition and replenishment of supply stocks to be used by the NATO Maintenance and Supply Organization to provide cooperative logistics support.

(c) SHARING OF ADMINISTRATIVE EXPENSES.—Each Weapon System Partnership Agreement shall provide for joint management by the participating countries and for the equitable sharing of the administrative costs and costs of claims[213] incident to the agreement.

(d) APPLICATION OF CHAPTER 137.—Except as otherwise provided in this section, the provisions of chapter 137 of this title apply to a contract entered into by the Secretary of Defense for the acquisition of logistics support under a Weapon System Partnership Agreement.

(e) APPLICATION OF ARMS EXPORT CONTROL ACT.—Any transfer of defense articles or defense services to a member country of the North Atlantic Treaty Organization or to the NATO Maintenance and Supply Organization for the purposes of a Weapon System Partnership Agreement shall be carried out in accordance this chapter and[214] with the Arms Export Control Act (22 U.S.C. 2751 et seq.).

(f) SUPPLEMENTAL AUTHORITY.—The authority of the Secretary of Defense under this section is in addition to the authority of the Secretary under subchapter I and any other provision of law.

§ 2350e.[215] NATO Airborne Warning and Control System (AWACS) program: authority of Secretary of Defense

(a) AUTHORITY UNDER AWACS PROGRAM.—The Secretary of Defense, in carrying out an AWACS memorandum of understanding, may do the following:

(1) Waive reimbursement for the cost of the following functions performed by personnel other than personnel employed in the United States Air Force Airborne Warning and Control System (AWACS) program office:

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[213] Sec. 843(b)(2) of Public Law 102–484 (106 Stat. 2469) inserted "and costs of claims" after administrative costs", with a stipulation for termination of the amendment. This stipulation was repealed by sec. 1318 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2902).

[214] Sec. 938(c) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1539), added "this chapter and".

[215] Sec. 932(a) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1536) added sec. 2350e. Sec. 2350e(d), which provided for the expiration of this authority, was struck out by sec. 1413 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1829). Originally intended to expire on September 30, 1991, that date had been amended to extend the authority until September 30, 1993, by sec. 1051(2) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1470).

(A) Auditing.
(B) Quality assurance.
(C) Codification.
(D) Inspection.
(E) Contract administration.
(F) Acceptance testing.
(G) Certification services.
(H) Planning, programming, and management services.

(2) Waive any surcharge for administrative services otherwise chargeable.

(3) In connection with that Program, assume contingent liability for—

(A) program losses resulting from the gross negligence of any contracting officer of the United States;

(B) identifiable taxes, customs duties, and other charges levied within the United States on the program; and

(C) the United States share of the unfunded termination liability.

(b) CONTRACT AUTHORITY LIMITATION.—Authority under this section to enter into contracts shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

(c) DEFINITION.—In this section, the term "AWACS memorandum of understanding" means—

(1) the Multilateral Memorandum of Understanding Between the North Atlantic Treaty Organization (NATO) Ministers of Defence on the NATO E–3A Cooperative Programme, signed by the Secretary of Defense on December 6, 1978;

(2) the Memorandum of Understanding for Operations and Support of the NATO Airborne Early Warning and Control Force, signed by the United States Ambassador to NATO on September 26, 1984;[216]

(3)[216] the Addendum to the Multilateral Memorandum of Understanding Between the North Atlantic Treaty Organization (NATO) Ministers of Defense on the NATO E–3A Cooperative Programme (dated December 6, 1978) relating to the modernization of the NATO Airborne Early Warning and Control (NAEW&C) System, dated December 7, 1990; and

(4)[216] any other follow-on support agreement for the NATO E–3A Cooperative Programme.

§ 2350f.[217] Procurement of communications support and related supplies and services

(a) As an alternative means of obtaining communications support and related supplies and services, the Secretary of Defense, subject to the approval of the Secretary of State, may enter into a bilateral arrangement with any allied country or allied international organization or may enter into a multilateral arrangement with allied

[216] Sec. 1051(1) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1470) struck out "and" at the end of para. (2); redesignated para. (3) as (4); inserted a new para. (3).

[217] Sec. 2350f was enacted as sec. 2401a by sec. 1005 of the Department of Defense Authorization Act, 1985 (Public Law 98–525; 98 Stat. 2492 at 2578); and redesignated as sec. 2350f by sec. 933(a) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1537).

countries and allied international organizations,[218] under which, in return for being provided communications support and related supplies and services, the United States would agree to provide to the allied country or countries or allied international organization or allied international organizations, as the case may be,[219] an equivalent value of communications support and related supplies and services. The term of an arrangement entered into under this subsection may not exceed five years.[220]

(b)(1)[221] Any arrangement entered into under this section shall require that any accrued credits and liabilities resulting from an unequal exchange of communications support and related supplies and services during the term of such arrangement would be liquidated by direct payment to the party having provided the greater amount of communications support and related supplies and services. Liquidations may be made at such times as the parties in an arrangement may agree upon, but in no case may final liquidation in the case of an arrangement be made later than 30 days after the end of the term for which the arrangement was entered into; and[221]

(2)[221] Parties to an arrangement entered into under this section shall annually reconcile accrued credits and liabilities accruing under such agreement. Any liability of the United States resulting from a reconciliation shall be charged against the applicable appropriation available to the Department of Defense (at the time of the reconciliation) for obligation for communications support and related supplies and services.

(3)[221] Payments received by the United States shall be credited to the appropriation from which such communications support and related supplies and services have been provided.

(c)[222] * * * [Repealed—2002]

(d)[223] In this section:

(1) The term "allied country" means—

(A) a country that is a member of the North Atlantic Treaty Organization;[224]

(B) Australia, New Zealand, Japan, or the Republic of Korea; or

[218] Sec. 933(b)(1) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1537) inserted text to this point beginning with "a bilateral arrangement", and struck out "an arrangement with the Minister of Defense or other appropriate official of any allied country or with the North Atlantic Treaty Organization (NATO)".

[219] Sec. 933(b)(2) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1537), struck out "such country or NATO" and inserted in lieu thereof text to this point beginning with "the allied country or countries or".

[220] Sec. 933(b)(3) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1537), added this last sentence.

[221] Sec. 933(c) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1537), added para. designation (1); added para. (2); designated the last sentence of para. (1) as para. (3); and added the last sentence to para. (1).

[222] Sec. 1041(a)(10) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2645) struck out subsec. (c), which had required the Secretary of Defense to submit to the Committees on Armed Services copies of all documents evidencing an arrangement entered into under subsec. (a) not later than 45 days after entering into such an arrangement.

[223] Sec. 933(d) of Public Law 101–189 struck out "In this section, the term 'allied country' means—" from subsec. (d), inserted in lieu thereof "In this section:"; redesignated clauses (1) and (2) as (A) and (B), respectively; made technical corrections to clauses redesignated as (A) and (B); and added a new clause (C) and para. (2).

[224] Sec. 1484(k)(8) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1719) struck out ", or" here and inserted a semicolon.

(C) any other country designated as an allied country for purposes of this section by the Secretary of Defense with the concurrence of the Secretary of State.

(2) The term "allied international organization" means the North Atlantic Treaty Organization (NATO) or any other international organization designated as an allied international organization for the purposes of this section by the Secretary of Defense with the concurrence of the Secretary of State.

§ 2350g.[225] Authority to accept use of real property, services, and supplies from foreign countries in connection with mutual defense agreements and occupational arrangements

(a) AUTHORITY TO ACCEPT.—The Secretary of Defense may accept from a foreign country, for the support of any element of the armed forces in an area of that country—

(1) real property or the use of real property and services and supplies for the United States or for the use of the United States in accordance with a mutual defense agreement or occupational arrangement; and

(2) services furnished as reciprocal international courtesies or as services customarily made available without charge.

(b)[225] AUTHORITY TO USE PROPERTY, SERVICES, AND SUPPLIES.—Property, services, or supplies referred to in subsection (a) may be used by the Secretary of Defense without specific authorization, except that such property, services, and supplies may not be used in connection with any program, project, or activity if the use of such property, services, or supplies would result in the violation of any prohibition or limitation otherwise applicable to that program, project, or activity.

(c)[226] PERIODIC AUDITS BY GAO.—The Comptroller General of the United States shall make periodic audits of money and property accepted under this section, at such intervals as the Comptroller General determines to be warranted. The Comptroller General shall submit to Congress a report on the results of each such audit.

§ 2350h.[227] Memorandums of agreement: Department of Defense ombudsman for foreign signatories

The Secretary of Defense shall designate an official to act as ombudsman within the Department of Defense on behalf of foreign governments who are parties to memorandums of agreement with

[225] Sec. 1451(b)(1) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1693) added sec. 2350g. Sec. 1032(a)(3) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 751) struck out subsec. (b), which had required the Secretary of Defense to report quarterly on property, services and supplies accepted pursuant to this section, and redesignated subsecs. (c) and (d) as subsecs. (b) and (c).

[226] Sec. 1105(a) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1749) amended and restated subsec. (d), redesignated as subsec. (c) by sec. 1032(a)(3)(B) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 751).

[227] Sec. 1452(a)(1) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1694) added sec. 2350h. Sec. 1452(b) of that Act also provided that: "The official required to be designated under section 2350(h) of title 10, United States Code, as added by subsection (a), shall be designated by the Secretary of Defense not later than 90 days after the date of the enactment of this Act.".

the United States concerning acquisition matters under the jurisdiction of the Secretary of Defense. The official so designated shall assist officials of those foreign governments in understanding and complying with procedures and requirements of the Department of Defense (and, as appropriate, other departments and agencies of the United States) insofar as they relate to any such memorandum of agreement.

§ 2350i.[228] Foreign contributions for cooperative projects

(a) CREDITING OF CONTRIBUTIONS.—Whenever the United States participates in a cooperative project with a friendly foreign country or the North Atlantic Treaty Organization (NATO) on a cost-sharing basis, any contribution received by the United States from that foreign country or NATO to meet its share of the costs of the project may be credited to appropriations available to an appropriate military department or another appropriate organization within the Department of Defense, as determined by the Secretary of Defense.

(b) USE OF AMOUNTS CREDITED.—The amount of a contribution credited pursuant to subsection (a) to an appropriation account in connection with a cooperative project referred to in that subsection shall be available only for payment of the share of the project expenses allocated to the foreign country or NATO making the contribution. Payments for which such amount is available include the following:

(1) Payments to contractors and other suppliers (including the Department of Defense and other participants acting as suppliers) for necessary articles and services.

(2) Payments for any damages and costs resulting from the performance or cancellation of any contract or other obligation.

(3) Payments or reimbursements of other program expenses, including program office overhead and administrative costs.

(4) Refunds to other participants.

(c) DEFINITIONS.—In this section:

(1) The term "cooperative project" means a jointly managed arrangement, described in a written cooperative agreement entered into by the participants, that—

(A) is undertaken by the participants in order to improve the conventional defense capabilities of the participants; and

(B) provides for—

(i) one or more participants (other than the United States) to share with the United States the cost of research and development, testing, evaluation, or joint production (including follow-on support) of defense articles;

(ii) the United States and another participant concurrently to produce in the United States and the country of such other participant a defense article jointly developed in a cooperative project described in clause (i); or

[228] Sec. 1047(a) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1467) added sec. 2350i.

(iii) the United States to procure a defense article or a defense service from another participant in the cooperative project.

(2) The term "defense article" has the meaning given such term in section 47(3) of the Arms Export Control Act (22 U.S.C. 2794(3)).

(3) The term "defense service" has the meaning given such term in section 47(4) of the Arms Export Control Act (22 U.S.C. 2794(4)).

§ 2350j.[229] Burden sharing contributions by designated countries and regional organizations

(a) AUTHORITY TO ACCEPT CONTRIBUTIONS.—The Secretary of Defense, after consultation with the Secretary of State, may accept cash contributions from any country or regional organization designated for purposes of this section by the Secretary of Defense, in consultation with the Secretary of State,[230] for the purposes specified in subsection (c).

(b)[231] ACCOUNTING.—Contributions accepted under subsection (a) which are not related to security assistance may be accepted, managed, and expended in dollars or in the currency of the host nation (or, in the case of a contribution from a regional organization, in the currency in which the contribution was provided). Any such contribution shall be placed in an account established for such purpose and shall remain available until expended for the purposes specified in subsection (c). The Secretary of Defense shall establish a separate account for such purpose for each country or regional organization from which such contributions are accepted under subsection (a).

(c) AVAILABILITY OF CONTRIBUTIONS.—Contributions accepted under subsection (a) shall be available only for the payment of the following costs:

(1) Compensation for local national employees of the Department of Defense.

(2) Military construction projects of the Department of Defense.

(3) Supplies and services of the Department of Defense.

(d) AUTHORIZATION OF MILITARY CONSTRUCTION.—Contributions placed in an account established under subsection (b)[232] may be used—

(1) by the Secretary of Defense to carry out a military construction project that is consistent with the purposes for which

[229] Sec. 1402(a) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1826) added this section heading, and incorporated as text of a new sec. 2350j, the language enacted as sec. 1045 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 101–190), as amended, and further amended by sec. 1402(b) of Public Law 103–160.

[230] Sec. 1402(a)(2)(A)(iv) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1826) inserted "from any country or regional organization designated for purposes of this section by the Secretary of Defense, in consultation with the Secretary of State". Sec. 1070(a)(10)(A) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2856) inserted a comma after "Secretary of State" at this point.

[231] Sec. 1331(a) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 482) amended and restated subsec. (b).

[232] Sec. 1331(b) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 482) struck out "credited under subsection (b) to an appropriation account of the Department of Defense" and inserted in lieu thereof "placed in an account established under subsection (b)".

the contributions were made and is not otherwise authorized by law; or

(2) by the Secretary of a military department, with the approval of the Secretary of Defense, to carry out such a project.

(e) NOTICE AND WAIT REQUIREMENTS.—(1) When a decision is made to carry out a military construction project under subsection (d), the Secretary of Defense shall submit to the congressional defense committees a report[233] containing—

(A) an explanation of the need for the project;

(B) the then current estimate of the cost of the project; and

(C) a justification for carrying out the project under that subsection.

(2) The Secretary of Defense or the Secretary of a military department may not commence a military construction project under subsection (d) until the end of the 21–day period beginning on the date on which the Secretary of Defense submits the report under paragraph (1) regarding the project or, if earlier, the end of the 14-day period beginning on the date on which a copy of that report is provided in an electronic medium pursuant to section 480 of this title.[234]

(3)[235] (A) A military construction project under subsection (d) may be carried out without regard to the requirement in paragraph (1) and the limitation in paragraph (2) if the project is necessary to support the armed forces in the country or region in which the project is carried out by reason of a declaration of war, or a declaration by the President of a national emergency pursuant to the National Emergencies Act (50 U.S.C. 1601 et seq.), that is in force at the time of the commencement of the project.

(B) When a decision is made to carry out a military construction project under subparagraph (A), the Secretary of Defense shall submit to the congressional defense committees—[236]

(i) a notice of the decision; and

(ii) a statement of the current estimated cost of the project, including the cost of any real property transaction in connection with the project.

(f) REPORTS.—Not later than 30 days after the end of each fiscal year, the Secretary of Defense shall submit to[237] Congress a report specifying separately for each country and regional organization from which contributions have been accepted by the Secretary under subsection (a)—

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[233] Sec. 1043(b)(12)(A) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1611) struck out "congressional committees specified in subsection (g)" and inserted in lieu thereof "congressional defense committees". Previously, sec. 1331(c)(1) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 482) struck out "a report to the congressional defense committees" and inserted in lieu thereof "to the congressional committees specified in subsection (g) a report".

[234] Sec. 1031(a)(18) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1597) inserted "or, if earlier, the end of the 14-day period beginning on the date on which a copy of that report is provided in an electronic medium pursuant to section 480 of this title".

[235] Sec. 2801(a) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 845) added para. (3).

[236] Sec. 1043(b)(12)(A) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1611) struck out "congressional committees specified in subsection (g)" and inserted in lieu thereof "congressional defense committees".

[237] Sec. 1070(a)(10)(B) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2888) struck out "the" at this point.

(1) the amount of the contributions accepted by the Secretary during the preceding fiscal year under subsection (a) and the purposes for which the contributions were made; and

(2) the amount of the contributions expended by the Secretary during the preceding fiscal year and the purposes for which the contributions were expended.

(g)[238] * * *

§ 2350k.[239] Relocation within host nation of elements of armed forces overseas

(a) AUTHORITY TO ACCEPT CONTRIBUTIONS.—The Secretary of Defense may accept contributions from any nation because of or in support of the relocation of elements of the armed forces from or to any location within that nation. Such contributions may be accepted in dollars or in the currency of the host nation. Any such contribution shall be placed in an account established for such purpose and shall remain available until expended for the purposes specified in subsection (b). The Secretary shall establish a separate account for such purpose for each country from which such contributions are accepted.

(b) USE OF CONTRIBUTIONS.—The Secretary may use a contribution accepted under subsection (a) only for payment of costs incurred in connection with the relocation concerning which the contribution was made. Those costs include the following:

(1) Design and construction services, including development and review of statements of work, master plans and designs, acquisition of construction, and supervision and administration of contracts relating thereto.

(2) Transportation and movement services, including packing, unpacking, storage, and transportation.

(3) Communications services, including installation and deinstallation of communications equipment, transmission of messages and data, and rental of transmission capability.

(4) Supply and administration, including acquisition of expendable office supplies, rental of office space, budgeting and accounting services, auditing services, secretarial services, and translation services.

(5) Personnel costs, including salary, allowances and overhead of employees whether full-time or part-time, temporary or permanent (except for military personnel), and travel and temporary duty costs.

(6) All other clearly identifiable expenses directly related to relocation.

(c) METHOD OF CONTRIBUTION.—Contributions may be accepted in any of the following forms:

(1) Irrevocable letter of credit issued by a financial institution acceptable to the Treasurer of the United States.

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[238] Sec. 1043(b)(12)(B) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1611) struck out subsec. (g), which, as amended, defined "congressional committees" as the Committee on Armed Services and the Committee on Appropriations of the Senate, and the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.

[239] Sec. 1332(a) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 482) added a new sec. 2350k.

(2) Drawing rights on a commercial bank account established and funded by the host nation, which account is blocked such that funds deposited cannot be withdrawn except by or with the approval of the United States.

(3) Cash, which shall be deposited in a separate trust fund in the United States Treasury pending expenditure and which shall accrue interest in accordance with section 9702 of title 31.

(d)[240] * * * [Repealed—2002]

§ 2350*l*.[241] Cooperative agreements for reciprocal use of test facilities: foreign countries and international organizations

(a) AUTHORITY.—The Secretary of Defense, with the concurrence of the Secretary of State, may enter into a memorandum of understanding (or other formal agreement) with a foreign country or international organization to provide for the testing, on a reciprocal basis, of defense equipment (1) by the United States using test facilities of that country or organization, and (2) by that country or organization using test facilities of the United States.

(b) PAYMENT OF COSTS.—A memorandum or other agreement under subsection (a) shall provide that, when a party to the agreement uses a test facility of another party to the agreement, the party using the test facility is charged by the party providing the test facility in accordance with the following principles:

(1) The user party shall be charged the amount equal to the direct costs incurred by the provider party in furnishing test and evaluation services by the providing party's officers, employees, or governmental agencies.

(2) The user party may also be charged indirect costs relating to the use of the test facility, but only to the extent specified in the memorandum or other agreement.

(c) DETERMINATION OF INDIRECT COSTS; DELEGATION OF AUTHORITY.—(1) The Secretary of Defense shall determine the appropriateness of the amount of indirect costs charged by the United States pursuant to subsection (b)(2).

(2) The Secretary may delegate the authority under paragraph (1) only to the Deputy Secretary of Defense and to one other official of the Department of Defense.

(d) RETENTION OF FUNDS COLLECTED BY THE UNITED STATES.—Amounts collected by the United States from a party using a test facility of the United States pursuant to a memorandum or other agreement under this section shall be credited to the appropriation accounts from which the costs incurred by the United States in providing such test facility were paid.

(e) DEFINITIONS.—In this section:

(1) The term "direct cost", with respect to the use of a test facility pursuant to a memorandum or other agreement under subsection (a)—

[240] Sec. 1041(a)(11) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2645) struck out subsec. (d), which had required the Secretary of Defense to submit an annual report to Congress on contributions under subsec. (a).

[241] Added by sec. 1213(a) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1250).

(A) means any item of cost that is easily and readily identified to a specific unit of work or output within the test facility where the use occurred, that would not have been incurred if such use had not occurred; and

(B) may include costs of labor, materials, facilities, utilities, equipment, supplies, and any other resources of the test facility that are consumed or damaged in connection with—

(i) the use; or

(ii) the maintenance of the test facility for purposes of the use.

(2) The term "indirect cost", with respect to the use of a test facility pursuant to a memorandum or other agreement under subsection (a)—

(A) means any item of cost that is not easily and readily identified to a specific unit of work or output within the test facility where the use occurred; and

(B) may include general and administrative expenses for such activities as supporting base operations, manufacturing, supervision, procurement of office supplies, and utilities that are accumulated costs allocated among several users.

(3) The term "test facility" means a range or other facility at which testing of defense equipment may be carried out.

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CHAPTER 139—RESEARCH AND DEVELOPMENT

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§ 2370. * * * [Repealed—1996][242]

§ 2370a. * * * [Repealed—2004][243]

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CHAPTER 141—MISCELLANEOUS PROCUREMENT PROVISIONS

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§ 2390.[244] Prohibition on the sale of certain defense articles from the stocks of the Department of Defense

(a)(1) Except as provided in subsections (b) and (c), the sale outside the Department of Defense of any defense article designated

[242] Sec. 2370, which had required the Secretary of Defense to report annually on biological defense research, was repealed by sec. 1061(j)(1) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 442). The section had been enacted by sec. 241(a) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1516).

[243] Added by sec. 214(a) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1586); repealed by sec. 1005(a) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2036). Pertained to funding restrictions for development of medical countermeasures against biowarfare threats: allocation of funding between near-term and other threats.

[244] Sec. 2390 was enacted as sec. 975 by sec. 815(a) of the DOD Authorization Act, 1979 (Public Law 95–485; 96 Stat. 1625); and redesignated as sec. 2390 by sec. 1622(b) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1604).

or otherwise classified as Prepositioned Material Configured to Unit Sets, as decrement stock, or as Prepositioned War Reserve Stocks for United States Forces is prohibited.

(2) In this section, the term "decrement stock" means such stock as is needed to bring the armed forces from a peace time level of readiness to a combat level of readiness.

(b) The President may authorize the sale outside the Department of Defense of a defense article described in subsection (a) if—

(1) he determines that there is an international crisis affecting the national security of the United States and the sale of such article is in the best interests of the United States; and

(2) he reports to the Congress not later than 60 days after the transfer of such article a plan for the prompt replenishment of the stocks of such article and the planned budget request to begin implementation of that plan.

(c)(1) Nothing in this section shall preclude the sale of stocks which have been designated for replacement, substitution, or elimination or which have been designated for sale to provide funds to procure higher priority stocks.

(2) Nothing in this section shall preclude the transfer or sale of equipment to other members of the North Atlantic Treaty Organization.

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§ 2410i.[245] Prohibition on contracting with entities that comply with the secondary Arab boycott of Israel

(a) POLICY.—Under section 3(5)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2402(5)(A)), it is the policy of the United States to oppose restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries friendly to the United States or against any other United States person.

(b) PROHIBITION.—(1) Consistent with the policy referred to in subsection (a), the Department of Defense may not award a contract for an amount in excess of the small purchase threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))) to a foreign entity unless that entity certifies to the Secretary of Defense that it does not comply with the secondary Arab boycott of Israel.

(2) In paragraph (1), the term "foreign entity" means a foreign person, a foreign company, or any other foreign entity.

(c) WAIVER AUTHORITY.—The Secretary of Defense may waive the prohibition in subsection (b) in specific instances when the Secretary determines that the waiver is necessary in the national security interests of the United States. Within 15 days after the end of each fiscal year, the Secretary shall submit to Congress a report identifying each contract for which a waiver was granted under this subsection during that fiscal year.

(d) EXCEPTIONS.—Subsection (b) does not apply—

[245] Added by sec. 1332(a) of Public Law 102–484 (106 Stat. 2555).

(1) to contracts for consumable supplies, provisions, or services that are intended to be used for the support of United States forces or of allied forces in a foreign country; or

(2) to contracts pertaining to the use of any equipment, technology, data, or services for intelligence or classified purposes by the United States Government in the interests of national security or to the acquisition or lease of any such equipment, technology, data, or services by the United States Government in the interests of national security.

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CHAPTER 145—CATALOGING AND STANDARDIZATION

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§ 2457.[246] Standardization of equipment with North Atlantic Treaty Organization members

(a) It is the policy of the United States to standardize equipment, including weapons systems, ammunition, and fuel, procured for the use of the armed forces of the United States stationed in Europe under the North Atlantic Treaty or at least to make that equipment interoperable with equipment of other members of the North Atlantic Treaty Organization. To carry out this policy, the Secretary of Defense shall—

(1) assess the costs and possible loss of nonnuclear combat effectiveness of the military forces of the members of the Organization caused by the failure of the members to standardize equipment;

(2) maintain a list of actions to be taken, including an evaluation of the priority and effect of the action, to standardize equipment that may improve the overall nonnuclear defense capability of the Organization or save resources for the Organization; and

(3) initiate and carry out, to the maximum extent feasible, procurement procedures to acquire standardized or interoperable equipment, considering the cost, function, quality, and availability of the equipment.

(b) Progress in realizing the objectives of standardization and interoperability would be enhanced by expanded inter-Allied procurement of arms and equipment within the North Atlantic Treaty Organization. Expanded inter-Allied procurement would be made easier by greater reliance on licensing and coproduction cooperative agreements among the signatories of the North Atlantic Treaty. If constructed to preserve the efficiencies associated with economies of scale, the agreements could minimize potential economic hardship to parties to the agreements and increase the survivability, in time of war, of the North Atlantic Alliance's armaments production

[246] Public Law 97–295 consolidated a number of provisions enacted in previous years concerning NATO standardization issues, made technical and conforming amendments, and codified the new language at 10 U.S.C. 2457. Portions of this text originated in the following acts: sec. 302(c) of the DOD Authorization Act, 1975 (Public Law 93–365; 88 Stat. 399); sec. 814 of the DOD Authorization Act, 1976 (Public Law 94–106; 89 Stat. 531); sec. 803 of the DOD Authorization Act, 1977 (Public Law 94–361; 90 Stat. 923); and sec. 1121 of the DOD Authorization Act, 1983 (Public Law 97–252; 96 Stat. 754). Public Law 97–295 repealed the above mentioned provisions relating to NATO standardization.

base by dispersing manufacturing facilities. In conjunction with other members of the Organization and to the maximum extent feasible, the Secretary shall—

(1) identify areas in which those cooperative agreements may be made with members of the Alliance; and

(2) negotiate those agreements.

(c)(1) It is the sense of Congress that weapons systems being developed wholly or primarily for employment in the North Atlantic Treaty Organization theater should conform to a common Organization requirement in order to proceed toward joint doctrine and planning and to facilitate maximum feasible standardization and interoperability of equipment, and that a common Organization requirement should be understood to include a common definition of the military threat to the members of the Organization.

(2) It is further the sense of Congress that standardization of weapons and equipment within the Organization on the basis of a "two-way street" concept of cooperation in defense procurement between Europe and North America can only work in a realistic sense if the European nations operate on a united and collective basis. Therefore, the governments of Europe are encouraged to accelerate their present efforts to achieve European armaments collaboration among all European members of the Organization.

(d)[247] * * *

(e) If the Secretary decides that procurement of equipment manufactured outside the United States is necessary to carry out the policy of subsection (a), the Secretary may determine under section 2 of the Buy American Act (41 U.S.C. 10a)[248] that acquiring that equipment manufactured in the United States is inconsistent with the public interest.

(f) The Secretary shall submit the results of each assessment and evaluation made under subsection (a)(1) and (2) to the appropriate North Atlantic Treaty Organization Body to become an integral part of the overall Organization review of force goals and development of force plans.

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CHAPTER 148—NATIONAL DEFENSE TECHNOLOGY AND INDUSTRIAL BASE, DEFENSE INVESTMENT, AND DEFENSE CONVERSION

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SUBCHAPTER III—PROGRAMS FOR DEVELOPMENT, APPLICATION, AND SUPPORT OF DUAL-USE TECHNOLOGIES

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[247] Sec. 1031(a)(22) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1598) struck out subsec. (d), which, as amended, had required the Secretary of Defense to report to Congress biennially on NATO procurement.

[248] Sec. 1503(a)(24) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 512) struck out "title III of the Act of March 3, 1933 (41 U.S.C. 10a)," and inserted in lieu thereof "the Buy American Act (41 U.S.C. 10a)".

§ 2517.[249] Office for Foreign Defense Critical Technology Monitoring and Assessment

(a) IN GENERAL.—The Secretary of Defense shall establish within the Office of the Director of Defense Research and Engineering an office known as the "Office for Foreign Defense Critical[249] Technology Monitoring and Assessment" (hereinafter in this section referred to as the "Office").

(b) RELATIONSHIP TO DEPARTMENT OF COMMERCE.—The head of the Office shall consult closely with appropriate officials of the Department of Commerce in order—

(1) to minimize the duplication of any effort of the Department of Commerce by the Department of Defense regarding the monitoring of foreign activities related to defense critical technologies that have potential commercial uses; and

(2) to ensure that the Office is effectively utilized to disseminate information to users of such information within the Federal Government.

(c) RESPONSIBILITIES.—The Office shall have the following responsibilities:

(1) To maintain within the Department of Defense a central library for the compilation and appropriate dissemination of unclassified and classified information and assessments regarding significant foreign activities in research, development, and applications of defense critical technologies.

(2) To establish and maintain—

(A) a widely accessible unclassified data base of information and assessments regarding foreign science and technology activities that involve defense critical technologies, including, especially, activities in Europe and in Pacific Rim countries; and

(B) a classified data base of information and assessments regarding such activities.

(3) To perform liaison activities among the military departments, Defense Agencies, and other appropriate elements of the Department of Defense, with appropriate agencies and offices of the Department of Commerce and the Department of State, and with other departments and agencies of the Federal Government in order to ensure that significant activities in research, development, and applications of defense critical technologies are identified, monitored, and assessed by an appropriate department or agency of the Federal Government.

(4) To ensure the maximum practicable public availability of information and assessments contained in the unclassified data bases established pursuant to paragraph (2)—

(A) by limiting, to the maximum practicable extent, restrictive classification of such information and assessments; and

(B) by disseminating to the National Technical Information Service of the Department of Commerce information

[249] Sec. 821(a) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1426) added this section as sec. 2525. Sec. 4227 of Public Law 102–484 (106 Stat. 2685) redesignated as sec. 2517, and inserted "Critical" after "Foreign Defense" in subsec. (a).

and assessments regarding defense critical technologies having potential commercial uses.

(5) To disseminate through the National Technical Information Service of the Department of Commerce unclassified information and assessments regarding defense critical technologies having potential commercial uses so that such information and assessments may be further disseminated within the Federal Government and to the private sector.

§ 2518.[250] Overseas foreign critical technology monitoring and assessment financial assistance program

(a) ESTABLISHMENT AND PURPOSE OF PROGRAM.—The Secretary of Defense may establish a foreign critical technology monitoring and assessment program. Under the program, the Secretary may enter into cooperative arrangements with one or more eligible not-for-profit organizations in order to provide financial assistance for the establishment of foreign critical technology monitoring and assessment offices in Europe, Pacific Rim countries, and such other countries as the Secretary considers appropriate.

(b) ELIGIBLE ORGANIZATIONS.—Any not-for-profit industrial or professional organization that has economic and scientific interests in research, development, and applications of dual-use critical technologies is eligible to enter into a cooperative arrangement referred to in subsection (a).

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SUBCHAPTER V—MISCELLANEOUS TECHNOLOGY BASE POLICIES AND PROGRAMS

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§ 2531.[251] Defense memoranda of understanding and related agreements

(a) CONSIDERATIONS IN MAKING AND IMPLEMENTING MOUS AND RELATED AGREEMENTS.—In the negotiation, renegotiation, and implementation of any existing or proposed memorandum of understanding, or any existing or proposed agreement related to a memorandum of understanding, between the Secretary of Defense, acting on behalf of the United States, and one or more foreign countries (or any instrumentality of a foreign country) relating to research, development, or production of defense equipment, or to the reciprocal procurement of defense items,[252] the Secretary of Defense shall—

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[250] Originally added as sec. 2526 by sec. 821(a) of Public Law 102–190 (105 Stat. 1426); redesignated as sec. 2518 by Public Law 102–484 (106 Stat. 2685).

[251] Sec. 824 of the National Defense Authorization Act for Fiscal Year 1989 (Public Law 100–456; 102 Stat. 2019) added this section as sec. 2504. It was substantially amended by sec. 815 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1500).

Sec. 4202(a) of Public Law 102–484 (106 Stat. 2659) redesignated this section as sec. 2531, and added a new chapter 148 to 10 U.S.C., relating to defense technology and industrial base, reinvestment, and conversion.

See also sec. 831 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2017), relating to defense trade reciprocity.

[252] Sec. 1453 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1694) inserted "or to the reciprocal procurement of defense items,".

(1) consider the effects of such existing or proposed memorandum of understanding or related agreement on the defense industrial base of the United States; and

(2) regularly solicit and consider comments and recommendations from the Secretary of Commerce with respect to the commercial implications of such memorandum of understanding or related agreement and the potential effects of such memorandum of understanding or related agreement on the international competitive position of United States industry.

(b) INTER-AGENCY REVIEW OF EFFECTS ON UNITED STATES INDUSTRY.—Whenever the Secretary of Commerce has reason to believe that an existing or proposed memorandum of understanding or related agreement has, or threatens to have, a significant adverse effect on the international competitive position of United States industry, the Secretary may request an inter-agency review of the memorandum of understanding or related agreement. If, as a result of the review, the Secretary determines that the commercial interests of the United States are not being served or would not be served by adhering to the terms of such existing memorandum or related agreement or agreeing to such proposed memorandum or related agreement, as the case may be, the Secretary shall recommend to the President the renegotiation of the existing memorandum or related agreement or any modification to the proposed memorandum of understanding or related agreement that he considers necessary to ensure an appropriate balance of interests.

(c) LIMITATION ON ENTERING INTO MOUS AND RELATED AGREEMENTS.—A memorandum of understanding or related agreement referred to in subsection (a) may not be entered into or implemented if the President, taking into consideration the results of the inter-agency review, determines that such memorandum of understanding or related agreement has or is likely to have a significant adverse effect on United States industry that outweighs the benefits of entering into or implementing such memorandum or agreement.

§ 2532.[253] Offset policy; notification

(a) ESTABLISHMENT OF OFFSET POLICY.—The President shall establish, consistent with the requirements of this section, a comprehensive policy with respect to contractual offset arrangements in connection with the purchase of defense equipment or supplies which addresses the following:

(1) Transfer of technology in connection with offset arrangements.

(2) Application of offset arrangements, including cases in which United States funds are used to finance the purchase by a foreign government.

[253] Sec. 825(b) of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 102 Stat. 2020), added this section as sec. 2505. Sec. 4202 of Public law 102–484 (106 Stat. 2659) redesignated this section as 2532, and added a new chapter 148 to 10 U.S.C., relating to defense technology and industrial base, reinvestment, and conversion. See also sec. 8138 of the Department of Defense Appropriations Act, 2004 (Public Law 108–87; 117 Stat. 1106), requiring the Secretary of Defense to report to Congress on certain contractual offset arrangements, memoranda of understanding and related agreements, and waivers.

(3) Effects of offset arrangements on specific subsectors of the industrial base of the United States and for preventing or ameliorating any serious adverse effects on such subsectors.

(b) TECHNOLOGY TRANSFER.—(1) No official of the United States may enter into a memorandum of understanding or other agreement with a foreign government that would require the transfer of United States defense technology to a foreign country or a foreign firm in connection with a contract that is subject to an offset arrangement if the implementation of such memorandum or agreement would significantly and adversely affect the defense industrial base of the United States and would result in a substantial financial loss to a United States firm.

(2) Paragraph (1) shall not apply in the case of a memorandum of understanding or agreement described in paragraph (1) if the Secretary of Defense, in consultation with the Secretary of Commerce and the Secretary of State, determines that a transfer of United States defense technology pursuant to such understanding or agreement will result in strengthening the national security of the United States and so certifies to Congress.

(3) If a United States firm is required under the terms of a memorandum of understanding, or other agreement entered into by the United States with a foreign country, to transfer defense technology to a foreign country, the United States firm may protest the determination to the Secretary of Defense on the grounds that the transfer of such technology would adversely affect the defense industrial base of the United States and would result in substantial financial loss to the protesting firm. The Secretary of Defense, in consultation with the Secretary of Commerce and the Secretary of State, shall make the final determination of the validity of the protesting firm's claim.

(c) NOTIFICATION REGARDING OFFSETS.—If at any time a United States firm enters into a contract for the sale of a weapon system or defense-related item to a foreign country or foreign firm and such contract is subject to an offset arrangement exceeding $50,000,000 in value, such firm shall notify the Secretary of Defense of the proposed sale. Notification shall be made under this subsection in accordance with regulations prescribed by the Secretary of Defense in consultation with the Secretary of Commerce.

(d) DEFINITIONS.—In this section:

(1) The term "United States firm" means a business entity that performs substantially all of its manufacturing, production, and research and development activities in the United States.

(2) The term "foreign firm" means a business entity other than a United States firm.

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SUBCHAPTER VI—DEFENSE EXPORT LOAN GUARANTEES [254]

Sec.
2540. Establishment of loan guarantee program.
2540a. Transferability.

[254] Subchapter VI, secs. 2540–2540d, were added by sec. 1321(a) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 474).

2540b. Limitations.
2540c. Fees charged and collected.
2540d. Definitions.

§ 2540.[255] Establishment of loan guarantee program

(a) ESTABLISHMENT.—In order to meet the national security objectives in section 2501(a) of this title, the Secretary of Defense shall establish a program under which the Secretary may issue guarantees assuring a lender against losses of principal or interest, or both principal and interest, arising out of the financing of the sale or long-term lease of defense articles, defense services, or design and construction services to a country referred to in subsection (b).

(b) COVERED COUNTRIES.—The authority under subsection (a) applies with respect to the following countries:

(1) A member nation of the North Atlantic Treaty Organization (NATO).

(2) A country designated as of March 31, 1995, as a major non-NATO ally pursuant to section 2350a(i)(3) of this title, as in effect on that date.[256]

(3) A country in Central Europe that, as determined by the Secretary of State—

(A) has changed its form of national government from a nondemocratic form of government to a democratic form of government since October 1, 1989; or

(B) is in the process of changing its form of national government from a nondemocratic form of government to a democratic form of government.

(4) A noncommunist country that was a member nation of the Asia Pacific Economic Cooperation (APEC) as of October 31, 1993.

(c) AUTHORITY SUBJECT TO PROVISIONS OF APPROPRIATIONS.—The Secretary may guarantee a loan under this subchapter only to such extent or in such amounts as may be provided in advance in appropriations Acts.

§ 2540a. Transferability

A guarantee issued under this subchapter shall be fully and freely transferable.

§ 2540b. Limitations

(a) TERMS AND CONDITIONS OF LOAN GUARANTEES.—In issuing a guarantee under this subchapter for a medium-term or long-term loan, the Secretary may not offer terms and conditions more beneficial than those that would be provided to the recipient by the Export-Import Bank of the United States under similar circumstances in conjunction with the provision of guarantees for nondefense articles and services.

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[255] See also sec. 8065 of the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 985), relating to the issuance of loan guarantees not otherwise provided for.

[256] Sec. 1084(d)(21) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2062) inserted “, as in effect on that date”.

(b) LOSSES ARISING FROM FRAUD OR MISREPRESENTATION.—No payment may be made under a guarantee issued under this subchapter for a loss arising out of fraud or misrepresentation for which the party seeking payment is responsible.

(c) NO RIGHT OF ACCELERATION.—The Secretary of Defense may not accelerate any guaranteed loan or increment, and may not pay any amount, in respect of a guarantee issued under this subchapter, other than in accordance with the original payment terms of the loan.

§ 2540c. Fees charged and collected

(a) EXPOSURE FEES.—The Secretary of Defense shall charge a fee (known as "exposure fee") for each guarantee issued under this subchapter.

(b) AMOUNT OF EXPOSURE FEE.—To the extent that the cost of the loan guarantees under this subchapter is not otherwise provided for in appropriations Acts, the fee imposed under subsection (a) with respect to a loan guarantee shall be fixed in an amount that is sufficient to meet potential liabilities of the United States under the loan guarantee.

(c) PAYMENT TERMS.—The fee under subsection (a) for each guarantee shall become due as the guarantee is issued. In the case of a guarantee for a loan which is disbursed incrementally, and for which the guarantee is correspondingly issued incrementally as portions of the loan are disbursed, the fee shall be paid incrementally in proportion to the amount of the guarantee that is issued.

(d) ADMINISTRATIVE FEES.—(1)[257] The Secretary of Defense shall charge a fee for each guarantee issued under this subchapter to reflect the additional administrative costs of the Department of Defense that are directly attributable to the administration of the program under this subchapter. Such fees shall be credited to a special

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[257] Sec. 1081(a) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (H.R. 5408, enacted by reference in Public Law 106–398; 114 Stat. 1654) inserted "(1)" after "ADMINISTRATIVE FEES", and added para. (2), effective October 1, 2000. Sec. 1081(c) of that Act provided the following:

"(c) LIMITATION PENDING SUBMISSION OF REPORT.—The Secretary of Defense may not exercise the authority provided by paragraph (2) of section 2540c(d) of title 10, United States Code, as added by subsection (a), until the Secretary submits to Congress a report on the operation of the Defense Export Loan Guarantee Program under subchapter V of chapter 148 of title 10, United States Code. The report shall include the following:

"(1) A discussion of the effectiveness of the loan guarantee program in furthering the sale of United States defense articles, defense services, and design and construction services to nations that are specified in section 2540(b) of such title, to include a comparison of the loan guarantee program with other United States Government programs that are intended to contribute to the sale of United States defense articles, defense services, and design and construction services and other comparisons the Secretary determines to be appropriate.

"(2) A discussion of the requirements and resources (including personnel and funds) for continued administration of the loan guarantee program by the Defense Department, to include—

"(A) an itemization of the requirements necessary and resources available (or that could be made available) to administer the loan guarantee program for each of the following entities: the Defense Security Cooperation Agency, the Department of Defense International Cooperation Office, and other Defense Department agencies, offices, or activities as the Secretary may specify; and

"(B) for each such activity, agency, or office, a comparison of the use of Defense Department personnel exclusively to administer, manage, and oversee the program with the use of contracted commercial entities to administer and manage the program.

"(3) Any legislative recommendations that the Secretary believes could improve the effectiveness of the program.

account in the Treasury. Amounts in the special account shall be available, to the extent and in amounts provided in appropriations Acts, for paying the costs of administrative expenses of the Department of Defense that are attributable to the loan guarantee program under this subchapter.

(2)[257] (A) If for any fiscal year amounts in the special account established under paragraph (1) are not available (or are not anticipated to be available) in a sufficient amount for administrative expenses of the Department of Defense for that fiscal year that are directly attributable to the administration of the program under this subchapter, the Secretary may use amounts currently available for operations and maintenance for Defense-wide activities, not to exceed $500,000 in any fiscal year, for those expenses.

(B) The Secretary shall, from funds in the special account established under paragraph (1), replenish operations and maintenance accounts for amounts expended under subparagraph (A) as soon as the Secretary determines practicable.

§ 2540d. Definitions

In this subchapter:

(1) The terms "defense article", "defense services", and "design and construction services" have the meanings given those terms in section 47 of the Arms Export Control Act (22 U.S.C. 2794).

(2) The term "cost", with respect to a loan guarantee, has the meaning given that term in section 502 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 661a).

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CHAPTER 152—ISSUE OF SUPPLIES, SERVICES, AND FACILITIES

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SUBCHAPTER II—ISSUE OF SERVICEABLE MATERIAL OTHER THAN TO THE ARMED FORCES

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"(4) A determination made by the Secretary of Defense indicating which Defense Department agency, office, or other activity should administer, manage, and oversee the loan guarantee program to increase sales of United States defense articles, defense services, and design and construction services, such determination to be made based on the information and analysis provided in the report.".

§ 2557.[258] Excess nonlethal supplies: availability for homeless veteran initiatives and humanitarian relief

(a) (1)[259] The Secretary of Defense may make available for humanitarian relief purposes any nonlethal excess supplies of the Department of Defense.

(2)[259] The Secretary of Defense may make excess clothing, shoes, sleeping bags, and related nonlethal excess supplies available to the Secretary of Veterans Affairs for distribution to homeless veterans and programs assisting homeless veterans. The transfer of nonlethal excess supplies to the Secretary of Veterans Affairs under this paragraph shall be without reimbursement.

(b) Excess supplies made available for humanitarian relief purposes under this section shall be transferred to the Secretary of State, who shall be responsible for the distribution of such supplies.

(c) This section does not constitute authority to conduct any activity which, if carried out as an intelligence activity by the Department of Defense, would require[260] a notice to the intelligence committees under title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.).[261]

(d)[262] In this section:

(1) "Nonlethal excess supplies" means property, other than real property of the Department of Defense—

(A) that is excess property, as defined in regulations of the Department of Defense; and

(B) that is not a weapon, ammunition, or other equipment or material that is designed to inflict serious bodily harm or death.

(2) "Intelligence committees" means the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

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[258] Sec. 1454 of the Department of Defense Authorization Act, 1986 (Public Law 99–145; 99 Stat. 761) added this section as sec. 2547. Redesignated to sec. 2557 by sec. 1033(b)(1) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2000 (H.R. 5408, enacted by reference in Public Law 106–398; 114 Stat. 1654).

Sec. 361(b)(1) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1065) restated the section heading, which previously read: "**Excess nonlethal supplies: humanitarian relief**".

[259] Sec. 361(a) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1064) added para. designation "(1)", and added para. (2).

[260] Sec. 602(c)(3)(A) of Public Law 102–88 (105 Stat. 444) struck out a requirement for a finding under sec. 662 of the Foreign Assistance Act of 1961 (22 U.S.C. 2422) for subsec. (c).

[261] Sec. 602(c)(3)(B) of Public Law 102–88 (105 Stat. 444) replaced reference to sec. 501(a)(1) of the National Security Act of 1947 (50 U.S.C. 413) with reference to title V of the National Security Act of 1947 (50 U.S.C. 413 *et seq.*).

[262] Sec. 1322(a)(10) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1671) struck out para. (d) and redesignated para. (e) as para. (d). Former para. (d) required the Secretary of State to prepare an annual report on the disposition of all excess supplies transferred by the Secretary of Defense to the Secretary of State during the preceding year, to be submitted to the Committees on Armed Services and on Foreign Relations of the Senate and the Committees on Armed Services and on Foreign Affairs of the House of Representatives.

§ 2561.[263] Humanitarian assistance

(a) AUTHORIZED ASSISTANCE.—(1)[264] To the extent provided in defense authorization Acts, funds authorized to be appropriated to the Department of Defense for a fiscal year for humanitarian assistance shall be used for the purpose of providing transportation of humanitarian relief and for other humanitarian purposes worldwide.

(2)[264] The Secretary of Defense may use the authority provided by paragraph (1) to transport supplies intended for use to respond to, or mitigate the effects of, an event or condition, such as an oil spill, that threatens serious harm to the environment, but only if other sources to provide such transportation are not readily available. The Secretary may require reimbursement for costs incurred by the Department of Defense to transport supplies under this paragraph.

(b) AVAILABILITY OF FUNDS.—To the extent provided in appropriation Acts, funds appropriated for humanitarian assistance for the purposes of this section shall remain available until expended.

(c) STATUS REPORTS.—(1) The Secretary of Defense shall submit to the congressional committees specified in subsection (f) an annual report on the provision of humanitarian assistance pursuant to this section for the prior fiscal year. The report shall be submitted each year at the time of the budget submission by the President for the next fiscal year.

(2) Each report required by paragraph (1) shall cover all provisions of law that authorize appropriations for humanitarian assistance to be available from the Department of Defense for the purposes of this section.

(3) Each report under this subsection shall set forth the following information regarding activities during the previous fiscal year:

(A) The total amount of funds obligated for humanitarian relief under this section.

(B) The number of scheduled and completed transportation missions for purposes of providing humanitarian assistance under this section.

(C) A description of any transfer of excess nonlethal supplies of the Department of Defense made available for humanitarian relief purposes under section 2557[265] of this title. The description shall include the date of the transfer, the entity to whom the transfer is made, and the quantity of items transferred.

(d) REPORT REGARDING RELIEF FOR UNAUTHORIZED COUNTRIES.—In any case in which the Secretary of Defense provides for the transportation of humanitarian relief to a country to which the

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[263] Sec. 1312 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 474) amended this section by striking out subsecs. (b), (c), and (e), redesignating former subsec. (d) as subsec. (b), adding a new subsec. (c), redesignating former subsecs. (f) and (g) as subsecs. (d) and (e), respectively, and adding a new subsec. (f).

Originally added by sec. 304(c) of Public Law 102–484 (106 Stat. 2361) as sec. 2551. Redesignated to sec. 2561 by sec. 1033(b)(1) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2000 (H.R. 5408, enacted by reference in Public Law 106–398; 114 Stat. 1654).

[264] Sec. 312(d) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1430) inserted para. designation (1), and added para. (2).

[265] Sec. 1033(c)(1) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2000 (H.R. 5408, enacted by reference in Public Law 106–398; 114 Stat. 1654) struck out "section 2547" and inserted in lieu thereof "section 2557".

transportation of humanitarian relief has not been specifically authorized by law, the Secretary shall notify "the congressional committees specified in subsection (f) and the Committees on Appropriations of the Senate and House of Representatives of the[266] Secretary's intention to provide such transportation. The notification shall be submitted not less than 15 days before the commencement of such transportation.

(e) DEFINITION.—In this section, the term "defense authorization Act" means an Act that authorizes appropriations for one or more fiscal years for military activities of the Department of Defense, including authorizations of appropriations for the activities described in paragraph (7) of section 114(a) of this title.

(f) CONGRESSIONAL COMMITTEES.—The congressional committees referred to in subsections (c)(1) and (d) are the following:

(1) The Committee on Armed Services and the Committee on Foreign Relations of the Senate.

(2) The Committee on Armed Services[267] and the Committee on International Relations of the House of Representatives.

§ 2562.[268] Limitation on use of excess construction or fire equipment from Department of Defense stocks in foreign assistance or military sales programs

(a) LIMITATION.—Excess construction or fire equipment from the stocks of the Department of Defense may be transferred to any foreign country or international organization pursuant to part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2301 et seq.) or section 21 of the Arms Export Control Act (22 U.S.C. 2761) only if—

(1) no department or agency of the Federal Government (other than the Department of Defense), no State, and no other person or entity eligible to receive excess or surplus property under subtitle I of title 40 and title III of[269] the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.)[270] submits to the Defense Reutilization and Marketing Service a request for such equipment during the period for which the Defense Reutilization and Marketing Service accepts such a request; or

(2) the President determines that the transfer is necessary in order to respond to an emergency for which the equipment is especially suited.

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[266] Sec. 1312(4) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 474) struck out "the Committees on Appropriations and on Armed Services of the Senate and House of Representatives, the Committee on Foreign Relations of the Senate, and the Committee on Foreign Affairs of the House of Representatives of the" and inserted in lieu thereof "the congressional committees specified in subsection (f) and the Committees on Appropriations of the Senate and House of Representatives of the".

[267] Sec. 1067(1) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 774) struck out "Committee on National Security" and inserted in lieu thereof "Committee on Armed Services".

[268] Added by sec. 4304(a) of Public Law 102–484 (106 Stat. 2699) as sec. 2552. Redesignated to sec. 2562 by sec. 1033(b)(1) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2000 (H.R. 5408, enacted by reference in Public Law 106–398; 114 Stat. 1654).

[269] Sec. 3(b)(8)(A) of Public Law 107–217 (116 Stat. 1295) inserted "subtitle I of title 40 and title III of" before "the Federal".

[270] Sec. 3(b)(8)(B) of Public Law 107–217 (116 Stat. 1296) struck out "(40 U.S.C. 472 et seq.)" and inserted in lieu thereof "(41 U.S.C. 251 et seq.)".

(b) RULE OF CONSTRUCTION.—Nothing in subsection (a) shall be construed to limit the authority to transfer construction or fire equipment under section 2557[271] of this title.

(c) DEFINITION.—In this section, the term "construction or fire equipment" includes tractors, scrapers, loaders, graders, bulldozers, dump trucks, generators, pumpers, fuel and water tankers, crash trucks, utility vans, rescue trucks, ambulances, hook and ladder units, compressors, and miscellaneous fire fighting equipment.

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§ 2565.[272] Nuclear test monitoring equipment: furnishing to foreign governments

(a) AUTHORITY TO TRANSFER TITLE TO OR OTHERWISE[273] PROVIDE NUCLEAR TEST MONITORING EQUIPMENT.—Subject to subsection (b), the Secretary of Defense may—

(1) transfer title[274] or otherwise provide to a foreign government (A) equipment for the monitoring of nuclear test explosions, and (B) associated equipment;[275]

(2) as part of any such conveyance or provision of equipment, install such equipment on foreign territory or in international waters; and[276]

(3)[276] inspect, test, maintain, repair, or replace any such equipment.

(b) AGREEMENT REQUIRED.—Nuclear test explosion monitoring equipment may be provided to a foreign government[277] under subsection (a) only pursuant to the terms of an agreement between the United States and the foreign government receiving the equipment in which the recipient foreign government agrees—

(1) to provide the United States with timely access to the data produced, collected, or generated by the equipment; and[278]

(2) to permit the Secretary of Defense to take such measures as the Secretary considers necessary to inspect, test, maintain,

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[271] Sec. 1033(c)(2) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2000 (H.R. 5408, enacted by reference in Public Law 106–398; 114 Stat. 1654) struck out "section 2547" and inserted in lieu thereof "section 2557".

[272] Added by sec. 1203(a) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2000 (H.R. 5408, enacted by reference in Public Law 106–398; 114 Stat. 1654) as sec. 2555. Redesignated by sec. 1201(a) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1245) as sec. 2565.

[273] Sec. 1201(b)(1)(A) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1245) struck out "CONVEY OR" and inserted in lieu thereof "TRANSFER TITLE TO OR OTHERWISE".

[274] Sec. 1201(b)(1)(B)(i) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1245) struck out "convey" and inserted in lieu thereof "transfer title".

[275] Sec. 1201(b)(1)(B)(ii) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1245) struck out "and" at the end of para. (1).

[276] Sec. 1201(b)(1)(C) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1245) struck out a period at the end of para. (2) and inserted in lieu thereof "; and", and sec. 1201(b)(1)(D) of that Act added new para. (3).

[277] Sec. 1201(b)(2)(A) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1246) struck out "conveyed or otherwise provided" and inserted in lieu thereof "provided to a foreign government".

[278] Sec. 1201(b)(2) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1246) inserted "and" at the end of para. (1), struck out "; and" at the end of para. (2) and inserted in lieu thereof a period, and struck out para. (3), which had read as follows:

"(3) to return such equipment to the United States (or allow the United States to recover such equipment) if either party determines that the agreement no longer serves its interests.".

repair, or replace that equipment, including access for purposes of such measures.

(c) REPORT.—Promptly after entering into any agreement under subsection (b), the Secretary of Defense shall submit to Congress a report on the agreement. The report shall identify the country with which the agreement was made, the anticipated costs to the United States to be incurred under the agreement, and the national interest of the United States that is furthered by the agreement.

(d) LIMITATION ON DELEGATION.—The Secretary of Defense may delegate the authority of the Secretary to carry out this section only to the Secretary of the Air Force. Such a delegation may be redelegated.

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CHAPTER 153—EXCHANGE OF MATERIAL AND DISPOSAL OF OBSOLETE, SURPLUS, OR UNCLAIMED PROPERTY

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§ 2576a.[279] Excess personal property: sale or donation for law enforcement activities

(a) TRANSFER AUTHORIZED.—(1) Notwithstanding any other provision of law and subject to subsection (b), the Secretary of Defense may transfer to Federal and State agencies personal property of the Department of Defense, including small arms and ammunition, that the Secretary determines is—

(A) suitable for use by the agencies in law enforcement activities, including counter-drug and counter-terrorism activities; and

(B) excess to the needs of the Department of Defense.

(2) The Secretary shall carry out this section in consultation with the Attorney General and the Director of National Drug Control Policy.

(b) CONDITIONS FOR TRANSFER.—The Secretary of Defense may transfer personal property under this section only if—

(1) the property is drawn from existing stocks of the Department of Defense;

(2) the recipient accepts the property on an as-is, where-is basis;

(3) the transfer is made without the expenditure of any funds available to the Department of Defense for the procurement of defense equipment; and

(4) all costs incurred subsequent to the transfer of the property are borne or reimbursed by the recipient.

(c) CONSIDERATION.—Subject to subsection (b)(4), the Secretary may transfer personal property under this section without charge to the recipient agency.

(d) PREFERENCE FOR CERTAIN TRANSFERS.—In considering applications for the transfer of personal property under this section, the Secretary shall give a preference to those applications indicating

[279] Sec. 1033(a) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2640) added sec. 2576a.

that the transferred property will be used in the counter-drug or counter-terrorism activities of the recipient agency.

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§ 2581.[280] Excess UH–1 Huey and AH–1 Cobra helicopters: requirements for transfer to foreign countries

(a) REQUIREMENTS.—(1) Before an excess UH–1 Huey helicopter or AH–1 Cobra helicopter is transferred on a grant or sales basis to a foreign country for the purpose of flight operations by that country, the Secretary of Defense shall make all reasonable efforts to ensure that the helicopter receives, to the extent necessary, maintenance and repair equivalent to the depot-level maintenance and repair (as defined in section 2460 of this title) that the helicopter would need were the helicopter to remain in operational use with the armed forces. Any such maintenance and repair work shall be performed at no cost to the Department of Defense.

(2) The Secretary shall make all reasonable efforts to ensure that maintenance and repair work described in paragraph (1) is performed in the United States.

(b) EXCEPTION.—Subsection (a) does not apply with respect to salvage helicopters provided to the foreign country solely as a source for spare parts.

CHAPTER 155—ACCEPTANCE OF GIFTS AND SERVICES

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§ 2608.[281] Acceptance of contributions for defense programs, projects, and activities; Defense Cooperation Account

(a) ACCEPTANCE AUTHORITY.—The Secretary of Defense may accept from any person, foreign government, or international organization any contribution of money or real or personal property made by such person, foreign government, or international organization for use by the Department of Defense and may accept from any foreign government or international organization any contribution of services made by such foreign government or international organization for use by the Department of Defense.[282]

(b) ESTABLISHMENT OF DEFENSE COOPERATION ACCOUNT.—(1) There is established in the Treasury of the United States a special account to be known as the "Defense Cooperation Account".

(2) Contributions of money and proceeds from the sale of any property accepted by the Secretary of Defense under subsection (a) shall be credited to the Defense Cooperation Account.

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[280] Added by sec. 1234(a) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2156).

[281] Sec. 202(a) of Public Law 101–403 (104 Stat. 873) added sec. 2608, under the heading "Acceptance of contributions for defense programs, projects, and activities". Sec. 1105(b)(2) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1750) restated the section heading.

[282] Sec. 1063 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2652) inserted "and may accept from any foreign government or international organization any contribution of services made by such foreign government or international organization for use by the Department of Defense" at the end of the sentence.

(c) USE OF THE DEFENSE COOPERATION ACCOUNT.—(1) Funds in the Defense Cooperation Account may be appropriated for a function described in section 114 of this title only to the extent that the appropriation of such funds for such purpose is authorize in accordance with that section.

(2) Funds in the Defense Cooperation Account shall not be made available for obligation or expenditure except to the extent and in the manner provided in subsequent appropriations Acts.

(d) USE OF PROPERTY.—Any contribution of property received under this section may be—

(1) retained and used by the Department of Defense in the form in which it was donated;

(2) sold or otherwise disposed of upon such terms and conditions and in accordance with such procedures as the Secretary determines appropriate; or

(3) converted into a form usable by the Department of Defense.

(e) REPORTING REQUIREMENT.—(1) Not later than 30 days after the end of each quarter of each fiscal year, the Secretary of Defense shall submit to Congress a report on contributions of property accepted by the Secretary under this section during the preceding quarter. The Secretary shall include in each such report a description of all property having a value of more than $1,000,000.

(2) In computing the value of any property referred to in paragraph (1), the Secretary shall aggregate the value of—

(A) similar items of property accepted by the Secretary during the quarter concerned; and

(B) components which, if assembled, would comprise all or a substantial part of an item of equipment or a facility.

(f) AUTHORITY TO USE PROPERTY.—Property accepted under subsection (a) may be used by the Secretary of Defense without specific authorization, except that such property may not be used in connection with any program, project, or activity if the use of such property would result in the violation of any prohibition or limitation otherwise applicable to such program, project, or activity.

(g) INVESTMENT OF MONEY.—(1)[283] Upon request by the Secretary of Defense, the Secretary of the Treasury may invest money in the Defense Cooperation Account in securities of the United States or in securities guaranteed as to principal and interest by the United States.

(2) any interest or other income that accrues from investment insecurities referred to in paragraph (1) shall be deposited to the credit of the Defense Cooperation Account.

(h) NOTIFICATION OF CONDITIONS.—The Secretary of Defense shall notify Congress of any condition imposed by the donor on the use of any contribution accepted by the Secretary under the authority of this section.

[283] Sec. 1061(a)(16) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1473) inserted para. designation (1).

(i)[284] PERIODIC AUDITS BY GAO.—The Comptroller General of the United States shall make periodic audits of money and property accepted under this section, at such intervals as the Comptroller General determines to be warranted. The Comptroller General shall submit to Congress a report on the results of each such audit.

(j) ITEMS INCLUDED AS CONTRIBUTIONS.—In this section, the term "contribution" includes a devise of real property or a bequest of personal property.

(k) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section.

§ 2609.[285] * * * [Repealed—1996]

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§ 2611.[286] Asia-Pacific Center for Security Studies: acceptance of gifts and donations

(a)[287] AUTHORITY TO ACCEPT GIFTS AND DONATIONS.—(1) Subject to subsection (b), the Secretary of Defense may accept, on behalf of the Asia-Pacific Center, gifts and donations from sources described in paragraph (2)[288] in order to defray the costs of, or enhance the operation of, the Asia-Pacific Center.

(2)[289] The sources from which gifts and donations may be accepted under paragraph (1) are the following:

(A) The government of a State or a political subdivision of a State.

(B) The government of a foreign country.

(C) A foundation or other charitable organization, including a foundation or charitable organization that is organized or operates under the laws of a foreign country.

(D) Any source in the private sector of the United States or a foreign country.

(3) In this section, the term "Asia-Pacific Center" means the Department of Defense organization within the United States Pacific Command known as the Asia-Pacific Center for Security Studies.

(b) LIMITATION.—The Secretary may not accept a gift or donation under subsection (a) if the acceptance of the gift or donation would compromise or appear to compromise—

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[284] Sec. 1105(b)(1) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1750) amended and restated subsec. (i).

[285] Added by sec. 242(f)(1) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1605). Repealed by sec. 253(9) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 235). Sec. 2609 had authorized the Secretary of Defense to accept from allied foreign governments or international organizations contributions for use by the Department of Defense for Theater Missile Defense programs, and had established the Theater Missile Defense Cooperation Account.

[286] Added by sec. 915(a) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 721). Sec. 931(c) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1580) struck out "**foreign**" from the section catchline, preceding "**gifts and donations**".

[287] Sec. 931(b)(1)(A) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1580) struck out "FOREIGN" in subsecs. (a) and (f) catchlines.

[288] Sec. 931(a)(1) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1580), as amended by sec. 1084(f)(2) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2064), struck out "foreign gifts or donations" and inserted in lieu thereof "gifts and donations from sources described in paragraph (2)".

[289] Sec. 931(a) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1580) redesignated para. (2) as para. (3), and added a new para. (2).

(1) the ability of the Department of Defense, any employee of the Department, or members of the armed forces to carry out any responsibility or duty of the Department in a fair and objective manner; or

(2) the integrity of any program of the Department of Defense or of any person involved in such a program.

(c) CRITERIA FOR ACCEPTANCE.—The Secretary shall prescribe written guidance setting forth the criteria to be used in determining whether the acceptance of a gift[290] or donation would have a result described in subsection (b).

(d) CREDITING OF FUNDS.—Funds accepted by the Secretary under subsection (a) shall be credited to appropriations available to the Department of Defense for the Asia-Pacific Center. Funds so credited shall be merged with the appropriations to which credited and shall be available to the Asia-Pacific Center for the same purposes and same period as the appropriations with which merged.

(e)[291] * * * [Repealed—2002]

(f)[287] GIFT OR DONATION DEFINED.—For purposes of this section, a gift[292] or donation is a gift or donation of funds, materials (including research materials), property, or services (including lecture services and faculty services).[293]

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CHAPTER 161—PROPERTY RECORDS AND REPORT OF THEFT OR LOSS OF CERTAIN PROPERTY

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§ 2723.[294] Notice to congressional committees of certain security and counterintelligence failures within defense programs

(a) REQUIRED NOTIFICATION.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a notification of each security or counterintelligence failure or compromise of classified information relating to any defense operation, system, or technology of the United States that the Secretary considers likely to cause significant harm or damage to the national security interests of the United States. The Secretary shall consult with the Director of Central Intelligence and the Director of the Federal Bureau of Investigation, as appropriate, before submitting any such notification.

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[290] Sec. 931(b)(1)(B) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1580) struck out "foreign" before "gift".

[291] Sec. 1041(a)(17) of the Bob Stump National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–314; 116 Stat. 2645) struck out subsec. (e), which had required the Secretary of Defense to notify Congress in any fiscal year that the total amount of funds accepted under subsec. (a) exceeded $2,000,000.

[292] Sec. 931(b)(1)(C)(i) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1580) struck out "foreign" before "gift".

[293] Sec. 931(b)(1)(C)(ii) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1580) struck out "from a foreign government, a foundation or other charitable organization in a foreign country, or an individual in a foreign country." and inserted in lieu thereof a period.

[294] Added by sec. 1042(a) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 759).

(b) MANNER OF NOTIFICATION.—Notification of a failure or compromise of classified information under subsection (a) shall be provided, in accordance with the procedures established pursuant to subsection (c), not later than 30 days after the date on which the Department of Defense determines that the failure or compromise has taken place.

(c) PROCEDURES.—The Secretary of Defense and the Committees on Armed Services of the Senate and House of Representatives shall each establish such procedures as may be necessary to protect from unauthorized disclosure classified information, information relating to intelligence sources and methods, and sensitive law enforcement information that is submitted to those committees pursuant to this section and that are otherwise necessary to carry out the provisions of this section.

(d) STATUTORY CONSTRUCTION.—(1) Nothing in this section shall be construed as authority to withhold any information from the Committees on Armed Services of the Senate and House of Representatives on the grounds that providing the information to those committees would constitute the unauthorized disclosure of classified information, information relating to intelligence sources and methods, or sensitive law enforcement information.

(2) Nothing in this section shall be construed to modify or supersede any other requirement to report information on intelligence activities to the Congress, including the requirement under section 501 of the National Security Act of 1947 (50 U.S.C. 413).

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SUBTITLE B—ARMY

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PART IV—SERVICE, SUPPLY, AND PROCUREMENT

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CHAPTER 433—PROCUREMENT

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§ 4543.[295] Army industrial facilities: sales of manufactured articles or services outside Department of Defense

(a) AUTHORITY TO SELL OUTSIDE DOD.—Regulations under section 2208(h) of this title shall authorize a working-capital funded

[295] Added by sec. 158(a)(1) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1581). Sec. 158(c) of that Act provided:

"(c) DEADLINE FOR REGULATIONS.—Regulations under subsection (b) of section 4543 of title 10, United States Code, as added by subsection (a), shall be prescribed not later than 30 days after the date of the enactment of this Act.".

Sec. 141 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1652), as amended, provided the following:

"SEC. 141. PILOT PROGRAM ON SALES OF MANUFACTURED ARTICLES AND SERVICES OF CERTAIN ARMY INDUSTRIAL FACILITIES WITHOUT REGARD TO AVAILABILITY FROM DOMESTIC SOURCES.

"(a) PILOT PROGRAM REQUIRED.—During fiscal years 1998 through 2009, the Secretary of the Army shall carry out a pilot program to test the efficacy and appropriateness of selling manufactured articles and services of Army industrial facilities under section 4543 of title 10, United

Continued

Army industrial facility (including a Department of the Army arsenal) that manufactures large caliber cannons, gun mounts, recoil mechanisms, ammunition, munitions, or components thereof to sell manufactured[296] articles or services to a person outside the Department of Defense if—

(1) in the case of an article, the article is sold to a United States manufacturer, assembler, developer, or other concern—

(A) for use in developing new products;

(B) for incorporation into items to be sold to, or to be used in a contract with, an agency of the United States;

(C) for incorporation into items to be sold to, or to be used in a contract with, or to be used for purposes of soliciting a contract with, a friendly foreign government; or

(D) for use in commercial products;

(2) in the case of an article, the purchaser is determined by the Department of Defense to be qualified to carry out the proposed work involving the article to be purchased;

States Code, without regard to the availability of the articles and services from United States commercial sources. In carrying out the pilot program, the Secretary may use articles manufactured at, and services provided by, not more than three Army industrial facilities, except that during fiscal year 2002 the Secretary may only use articles manufactures at, and services provided by, not more than one Army industrial facility.

"(b) TEMPORARY WAIVER OF REQUIREMENT FOR DETERMINATION OF UNAVAILABILITY FROM DOMESTIC SOURCE.—Under the pilot program, the Secretary of the Army is not required under section 4543(a)(5) of title 10, United States Code, to determine whether an article or service is available from a commercial source located in the United States in the case of any of the following sales for which a solicitation of offers is issued during the period which the pilot program is being conducted:

"(1) A sale of articles to be incorporated into a weapon system being procured by the Department of Defense.

"(2) A sale of services to be used in the manufacture of a weapon system being procured by the Department of Defense.

"(c) TRANSFER OF CERTAIN SUMS.—For each Army industrial facility participating in the pilot program that sells manufactured articles and services in a total amount in excess of $20,000,000 in any fiscal year, the amount equal to one-half of one percent of such total amount shall be transferred from the sums in the Army Working Capital Fund for unutilized plant capacity to appropriations available for the following fiscal year for the demilitarization of conventional ammunition by the Army.

"(d) REVIEW BY INSPECTOR GENERAL.—The Inspector General of the Department of Defense shall review the experience under the pilot program under this section and, not later than July 1, 1999, submit to Congress a report on the results of the review. The report shall contain the following:

"(1) The Inspector General's views regarding the extent to which the waiver under subsection (b) enhances the opportunity for United States manufacturers, assemblers, developers, and other concerns to enter into or participate in contracts and teaming arrangements with Army industrial facilities under weapon system programs of the Department of Defense.

"(2) The Inspector General's views regarding the extent to which the waiver under subsection (b) enhances the opportunity for Army industrial facilities referred to in section 4543(a) of title 10, United States Code, to enter into or participate in contracts and teaming arrangements with United States manufacturers, assemblers, developers, and other concerns under weapon system programs of the Department of Defense.

"(3) The Inspector General's views regarding the effect of the waiver under subsection (b) on the ability of small businesses to compete for the sale of manufactured articles or services in the United States in competitions to enter into or participate in contracts and teaming arrangements under weapon system programs of the Department of Defense.

"(4) Specific examples under the pilot program that support the Inspector General's views.

"(5) Any other information that the Inspector General considers pertinent regarding the effects of the waiver of section 4543(a)(5) of title 10, United States Code, under the pilot program on opportunities for United States manufacturers, assemblers, developers, or other concerns, and for Army industrial facilities, to enter into or participate in contracts and teaming arrangements under weapon system programs of the Department of Defense.

"(6) Any recommendations that the Inspector General considers appropriate regarding continuation or modification of the policy set forth in section 4543(a)(5) of title 10, United States Code.".

[296] Sec. 141(1) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2688) struck out "nondefense-related commercial" after "manufactured".

(3) the sale is to be made on a basis that does not interfere with performance of work by the facility for the Department of Defense or for a contractor of the Department of Defense;[297]

(4) in the case of services, the services are related to an article authorized to be sold under this section and are to be performed in the United States for the purchaser;[297]

(5)[297] the Secretary of the Army determines that the articles or services are not available from a commercial source located in the United States;

(6)[297] the purchaser of an article or service agrees to hold harmless and indemnify the United States, except in a case of willful misconduct or gross negligence, from any claim for damages or injury to any person or property arising out of the article or service;

(7)[297] the article to be sold can be manufactured, or the service to be sold can be substantially performed, by the industrial facility with only incidental subcontracting;

(8)[297] it is in the public interest to manufacture such article or perform such service; and

(9)[297] the sale will not interfere with performance of the military mission of the industrial facility.

(b) ADDITIONAL REQUIREMENTS.—The regulations shall also—

(1) require that the authority to sell articles or services under the regulations be exercised at the level of the commander of the major subordinate command of the Army with responsibility over the facility concerned;

(2) authorize a purchaser of articles or services to use advance incremental funding to pay for the articles or services; and

(3) in the case of a sale of commercial articles or commercial services in accordance with subsection (a) by a facility that manufactures large caliber cannons, gun mounts, or recoil mechanisms, or components thereof, authorize such facility—

(A) to charge the buyer, at a minimum, the variable costs that are associated with the commercial articles or commercial services sold;

(B) to enter into a firm, fixed-price contract or, if agreed by the buyer, a cost reimbursement contract for the sale; and

(C) to develop and maintain (from sources other than appropriated funds) working capital to be available for paying design costs, planning costs, procurement costs, and other costs associated with the commercial articles or commercial services sold.

(c) RELATIONSHIP TO ARMS EXPORT CONTROL ACT.—Nothing in this section shall be construed to affect the application of the export controls provided for in section 38 of the Arms Export Control Act (22 U.S.C. 2778) to items which incorporate or are produced through the use of an article sold under this section.

(d) DEFINITIONS.—In this section:

[297] Sec. 141 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2688) struck out "and" at the end of para. (3); struck out a period at the end of para. (4), and inserted in lieu thereof a semicolon; and added new paras. (5) through (9).

(1) The term "commercial article" means an article that is usable for a nondefense purpose.

(2) The term "commercial service" means a service that is usable for a nondefense purpose.

(3) The term "advance incremental funding", with respect to a sale of articles or services, means a series of partial payments for the articles or services that includes—

(A) one or more partial payments before the commencement of work or the incurring of costs in connection with the production of the articles or the performance of the services, as the case may be; and

(B) subsequent progress payments that result in full payment being completed as the required work is being completed.

(4) The term "variable costs", with respect to sales of articles or services, means the costs that are expected to fluctuate directly with the volume of sales and—

(A) in the case of articles, the volume of production necessary to satisfy the sales orders; or

(B) in the case of services, the extent of the services sold.

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SUBTITLE C—NAVY AND MARINE CORPS

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PART IV—GENERAL ADMINISTRATION

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CHAPTER 633—NAVAL VESSELS

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§ 7307.[298] Disposals to foreign nations

(a) LARGER OR NEWER VESSELS.—A naval vessel that is in excess of 3,000 tons or that is less than 20 years of age may not be disposed of to another nation (whether by sale, lease, grant, loan, barter, transfer, or otherwise) unless the disposition of that vessel is approved by law enacted after August 5, 1974. A lease or loan of such a vessel under such a law may be made only in accordance with the provisions of chapter 6 of the Arms Export Control Act (22 U.S.C. 2796 et seq.) or chapter 2 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 et seq.).

(b) OTHER VESSELS.—(1) A naval vessel not subject to subsection (a) may be disposed of to another nation (whether by sale, lease, grant, loan, barter, transfer, or otherwise) in accordance with applicable provisions of law, but only after—

(A) the Secretary of the Navy notifies the Committee on Armed Services of the Senate and the Committee on Armed

[298] Secs. 7307 and 7308 were amended and restated by sec. 824 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1708).

Services of the House of Representatives[299] in writing of the proposed disposition; and

(B) 30 days of continuous session of Congress have expired following the date on which such notice is sent to those committees.

(2) For purposes of paragraph (1)(B), the continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of such 30-day period.

§ 7308.[298] Chief of Naval Operations: certification required for disposal of combatant vessels

Notwithstanding any other provision of law, no combatant vessel of the Navy may be sold, transferred, or otherwise disposed of unless the Chief of Naval Operations certifies that it is not essential to the defense of the United States.

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SUBTITLE D—AIR FORCE

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PART III—TRAINING

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CHAPTER 907—SCHOOLS AND CAMPS

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§ 9415.[300] Inter-American Air Forces Academy

(a) OPERATION.—The Secretary of the Air Force may operate the Air Force education and training facility known as the Inter-American Air Forces Academy for the purpose of providing military education and training to military personnel of Central and South American countries, Caribbean countries, and other countries eligible for assistance under chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.).

[299] Sec. 1502(a)(1) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 502) struck out "Committees on Armed Services of the Senate and House of Representatives" and inserted in lieu thereof "Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives". Sec. 1067(1) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 774) subsequently struck out "Committee on National Security" and inserted in lieu thereof "Committee on Armed Services".

[300] Sec. 330(a) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1535) added sec. 9415.

(b) COSTS.—The fixed costs of operating and maintaining the Inter-American Air Forces Academy may be paid from funds available for operation and maintenance of the Air Force.[301]

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[301] Sec. 8113 of the Department of Defense Appropriations Act, 1991 (Public Law 101–511; 104 Stat. 1904) provided the following:

"SEC. 8113. Funds made available under this Act to the Air Force for 'Operation and Maintenance' may be used to operate the United States Air Force education and training facility known as the Inter-American Air Forces Academy for the purpose of providing military education and training only to military personnel who are nationals of Central, South American and Caribbean countries: *Provided,* That only the fixed costs of operating and maintaining the Inter-American Air Forces Academy may be paid from funds available for operation and maintenance of the Air Force without reimbursement pursuant to section 37 of the Arms Export Control Act or section 632 of the Foreign Assistance Act or any other provision of law: *Provided further,* That no individual may be admitted to the Inter-American Air Forces Academy who has been convicted of a human rights violation, or is known to United States authorities to have committed, been an accessory to, or in an official capacity had knowledge of but failed to take remedial action concerning a human rights violation: *Provided further,* That the Air Force must provide concentrated instruction in democratic government and human rights protections to each attendee of IAAFA: *Provided further,* That the Air Force will provide the Committees on Appropriations of the House and Senate, no later than March 1, 1991, with a report on the operation of IAAFA and its curriculum, as well as a statistical and biographical profile of its students.".

b. Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005

Partial text of Public Law 108–375 [H.R. 4200], 118 Stat. 1811, approved October 28, 2004; amended by Public Law 108–447 [Consolidated Appropriations Act, 2005; H.R. 4818], 118 Stat. 2809, approved December 8, 2004

AN ACT To authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into three divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

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

SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES.

For purposes of this Act, the term "congressional defense committees" has the meaning given that term in section 101(a)(16) of title 10, United States Code.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

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TITLE III—OPERATION AND MAINTENANCE

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Subtitle A—Authorization of Appropriations

SEC. 301. OPERATION AND MAINTENANCE FUNDING.

Funds are hereby authorized to be appropriated for fiscal year 2005 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows: * * *

(18) For Overseas Humanitarian, Disaster, and Civic Aid programs, $59,000,000.

(19) For Cooperative Threat Reduction programs, $409,200,000.

(20) For the Overseas Contingency Operations Transfer Fund, $10,000,000.

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TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

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Subtitle A—Active Forces

SEC. 401.[1] END STRENGTHS FOR ACTIVE FORCES.

(a) IN GENERAL.—The Armed Forces are authorized strengths for active duty personnel as of September 30, 2005, as follows:

(1) The Army, 502,400.

(2) The Navy, 365,900.

(3) The Marine Corps, 178,000.

(4) The Air Force, 359,700.

(b) LIMITATION.—(1) The authorized strength for the Army provided in paragraph (1) of subsection (a) for active duty personnel for fiscal year 2005 is subject to the condition that costs of active duty personnel of the Army for that fiscal year in excess of 482,400 shall be paid out of funds authorized to be appropriated for that fiscal year for a contingent emergency reserve fund or as an emergency supplemental appropriation.

(2) The authorized strength for the Marine Corps provided in paragraph (3) of subsection (a) for active duty personnel for fiscal year 2005 is subject to the condition that costs of active duty personnel of the Marine Corps for that fiscal year in excess of 175,000 shall be paid out of funds authorized to be appropriated for that fiscal year for a contingent emergency reserve fund or as an emergency supplemental appropriation.

SEC. 402. REVISION IN PERMANENT ACTIVE DUTY END STRENGTH MINIMUM LEVELS.

Section 691(b) of title 10, United States Code, is amended by striking paragraphs (1) through (4) and inserting the following: * * *[2]

SEC. 403.[3] ADDITIONAL AUTHORITY FOR INCREASES OF ARMY ACTIVE DUTY PERSONNEL END STRENGTHS FOR FISCAL YEARS 2005 THROUGH 2009.

(a) AUTHORITY.—During fiscal years 2005 through 2009, the Secretary of Defense is authorized to increase by up to 30,000 the end strength authorized for the Army, and by up to 9,000 the end strength authorized for the Marine Corps, above the levels authorized for those services in the National Defense Authorization Act for Fiscal Year 2004, as necessary—

(1) to support the operational mission of the Army and Marine Corps in Iraq and Afghanistan; and

[1] 10 U.S.C. 115 note.
[2] For text, see page 625.
[3] 10 U.S.C. 115 note.

(2) with respect to end strengths for the Army, to achieve transformational reorganization objectives of the Army, including objectives for increased numbers of combat brigades, unit manning, force stabilization and shaping, and rebalancing of the active and reserve component forces of the Army.

(b) RELATIONSHIP TO PRESIDENTIAL WAIVER AUTHORITY.—Nothing in this section shall be construed to limit the President's authority under section 123a of title 10, United States Code, to waive any statutory end strength in a time of war or national emergency.

(c) RELATIONSHIP TO OTHER VARIANCE AUTHORITY.—The authority under subsection (a) is in addition to the authority to vary authorized end strengths that is provided in subsections (e) and (f) of section 115 of title 10, United States Code.

(d) BUDGET TREATMENT.—(1) If the Secretary of Defense plans to increase the Army or Marine Corps active duty end strength for a fiscal year under subsection (a) of this section or pursuant to a suspension of end-strength limitation under section 123a of title 10, United States Code, then the budget for the Department of Defense for such fiscal year as submitted to Congress shall specify the amounts necessary for funding the active duty end strength of the Army in excess of 482,400 and the Marine Corps in excess of 175,000 (the end strengths authorized for active duty personnel of the Army and Marine Corps, respectively, for fiscal year 2004 in paragraphs (1) and (3) of section 401 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–36; 117 Stat. 1450)).

(2) If the amount proposed for the Department of Defense for fiscal year 2006 within budget function 050 (National Defense) includes amounts necessary for funding an active duty end strength of the Army in excess of 482,400, or an active duty end strength of the Marine Corps in excess of 175,000, for that fiscal year, the specification of amounts necessary for funding such end strength (as required under paragraph (1)) shall include the following additional information:

(A) A display of the following amounts:

(i) The amount that is to be funded out of the amounts proposed for the Department of Defense within budget function 050 (National Defense) other than out of amounts for the Army and Marine Corps.

(ii) The amount that is to be funded out of the amounts proposed for the Army and Marine Corps within budget function 050 (National Defense).

(iii) The estimated amounts that are to be funded out of emergency reserve funds and supplemental appropriations for fiscal year 2006.

(B) A detailed justification for reliance on each funding source described in subparagraph (A).

(C) A detailed discussion of which programs and plans of the Army and Marine Corps funded in the proposed budget for fiscal year 2006 must be modified if the funding sources relied on, as presented under subparagraph (A), must be changed.

(D) The projected Army and Marine Corps active duty end strengths for each of fiscal years 2006 through 2010, together

with a detailed enumeration of the component costs of the projected end strengths for each such fiscal year.

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TITLE X—GENERAL PROVISIONS

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Subtitle A—Financial Matters

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SEC. 1002. UNITED STATES CONTRIBUTION TO NATO COMMON-FUNDED BUDGETS IN FISCAL YEAR 2005.

(a) FISCAL YEAR 2005 LIMITATION.—The total amount contributed by the Secretary of Defense in fiscal year 2005 for the common-funded budgets of NATO may be any amount up to, but not in excess of, the amount specified in subsection (b) (rather than the maximum amount that would otherwise be applicable to those contributions under the fiscal year 1998 baseline limitation).

(b) TOTAL AMOUNT.—The amount of the limitation applicable under subsection (a) is the sum of the following:

(1) The amounts of unexpended balances, as of the end of fiscal year 2004, of funds appropriated for fiscal years before fiscal year 2005 for payments for those budgets.

(2) The amount specified in subsection (c)(1).

(3) The amount specified in subsection (c)(2).

(4) The total amount of the contributions authorized to be made under section 2501.

(c) AUTHORIZED AMOUNTS.—Amounts authorized to be appropriated by titles II and III of this Act are available for contributions for the common-funded budgets of NATO as follows:

(1) Of the amount provided in section 201(1), $756,000 for the Civil Budget.

(2) Of the amount provided in section 301(1), $222,492,000 for the Military Budget.

(d) DEFINITIONS.—For purposes of this section:

(1) COMMON-FUNDED BUDGETS OF NATO.—The term "common-funded budgets of NATO" means the Military Budget, the Security Investment Program, and the Civil Budget of the North Atlantic Treaty Organization (and any successor or additional account or program of NATO).

(2) FISCAL YEAR 1998 BASELINE LIMITATION.—The term "fiscal year 1998 baseline limitation" means the maximum annual amount of Department of Defense contributions for common-funded budgets of NATO that is set forth as the annual limitation in section 3(2)(C)(ii) of the resolution of the Senate giving the advice and consent of the Senate to the ratification of the Protocols to the North Atlantic Treaty of 1949 on the Accession of Poland, Hungary, and the Czech Republic (as defined in section 4(7) of that resolution), approved by the Senate on April 30, 1998.

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SEC. 1013. TRANSFER OF NAVAL VESSELS TO CERTAIN FOREIGN RECIPIENTS.

(a) TRANSFERS BY GRANT.—The President is authorized to transfer vessels to foreign recipients on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j), as follows:

(1) CHILE.—To the Government of Chile, the SPRUANCE class destroyer USS O'BANNON (DD–987).

(2) PORTUGAL.—To the Government of Portugal, the OLIVER HAZARD PERRY class guided missile frigates GEORGE PHILIP (FFG–12) and SIDES (FFG–14).

(b) TRANSFERS BY SALE.—The President is authorized to transfer vessels to foreign recipients on a sale basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761), as follows:

(1) CHILE.—To the Government of Chile, the SPRUANCE class destroyer FLETCHER (DD–992).

(2) TAIWAN.—To the Taipei Economic and Cultural Representative Office of the United States (which is the Taiwan instrumentality designated pursuant to section 10(a) of the Taiwan Relations Act (22 U.S.C. 3309(a))), the ANCHORAGE class dock landing ship ANCHORAGE (LSD–36).

(c) GRANTS NOT COUNTED IN ANNUAL TOTAL OF TRANSFERRED EXCESS DEFENSE ARTICLES.—The value of a vessel transferred to another country on a grant basis pursuant to authority provided by subsection (a) shall not be counted against the aggregate value of excess defense articles transferred to countries in any fiscal year under section 516(g) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(g)).

(d) COSTS OF TRANSFERS.—Any expense incurred by the United States in connection with a transfer authorized under subsection (a) or (b) shall be charged to the recipient.

(e) REPAIR AND REFURBISHMENT IN UNITED STATES SHIPYARDS.—To the maximum extent practicable, the President shall require, as a condition of the transfer of a vessel under this section, that the country to which the vessel is transferred have such repair or refurbishment of the vessel as is needed, before the vessel joins the naval forces of that country, performed at a shipyard located in the United States, including a United States Navy shipyard.

(f) EXPIRATION OF AUTHORITY.—The authority to transfer a vessel under this section shall expire at the end of the two-year period beginning on the date of the enactment of this Act.

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Subtitle C—Counterdrug Matters

SEC. 1021. USE OF FUNDS FOR UNIFIED COUNTERDRUG AND COUNTERTERRORISM CAMPAIGN IN COLOMBIA.

(a) AUTHORITY.—(1) In fiscal years 2005 and 2006, funds available to the Department of Defense to provide assistance to the Government of Colombia may be used by the Secretary of Defense to support a unified campaign by the Government of Colombia against narcotics trafficking and against activities by organizations designated as terrorist organizations, such as the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), and the United Self-Defense Forces of Colombia (AUC).

(2) The authority to provide assistance for a campaign under this subsection includes authority to take actions to protect human health and welfare in emergency circumstances, including the undertaking of rescue operations.

(b) APPLICABILITY OF CERTAIN LAWS AND LIMITATIONS.—The use of funds pursuant to the authority in subsection (a) shall be subject to the following:

(1) Sections 556, 567, and 568 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107-115; 115 Stat. 2160, 2165, and 2166).[4]

(2) Section 8076 of the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 988).[5]

(c) NUMERICAL LIMITATION ON ASSIGNMENT OF UNITED STATES PERSONNEL.—Notwithstanding section 3204(b) of the Emergency Supplemental Act, 2000 (Division B of Public Law 106–246; 114 Stat. 575), as amended by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107–115; 115 Stat. 2131),[6] the number of United States personnel assigned to conduct activities in Colombia in connection with support of Plan Colombia under subsection (a) in fiscal years 2005 and 2006 shall be subject to the following limitations:

(1) The number of United States military personnel assigned for temporary or permanent duty in Colombia in connection with support of Plan Colombia may not exceed 800.

(2) The number of United States individual citizens retained as contractors in Colombia in connection with support of Plan Colombia who are funded by Federal funds may not exceed 600.

(d) LIMITATION ON PARTICIPATION OF UNITED STATES PERSONNEL.—No United States Armed Forces personnel, United States civilian employees, or United States civilian contractor personnel employed by the United States may participate in any combat operation in connection with assistance using funds pursuant to the authority in subsection (a), except for the purpose of acting in self defense or of rescuing any United States citizen, including any United States Armed Forces personnel, United States civilian employee, or civilian contractor employed by the United States.

(e) RELATION TO OTHER AUTHORITY.—The authority provided by subsection (a) is in addition to any other authority in law to provide assistance to the Government of Colombia.

(f) REPORT ON RELATIONSHIPS BETWEEN TERRORIST ORGANIZATIONS IN COLOMBIA AND FOREIGN GOVERNMENTS AND ORGANIZATIONS.—(1) Not later than 60 days after the date of the enactment of this Act, the Secretary of State, in consultation with the Secretary of Defense and the Director of Central Intelligence, shall submit to the congressional defense committees and the Committee

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[4] In Public Law 107–115: sec. 556 relates to the limitation on assistance to security forces, the "Leahy amendment," currently stated in similar text in sec. 551 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447; 118 Stat. 2809). Sec. 567 relates to determination and certification required before providing assistance for Colombia's Armed Forces, currently stated in similar text is sec. 556 of Public Law 108–447. Sec. 568 relates to denying visas to supporters of Colombian illegal armed groups, currently stated in identical text in sec. 557 of Public Law 108–447.

[5] Related to human rights standards required before assistance is made available to train security forces; for text, see page 732.

[6] For text, see page 222.

on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives a report that describes—

(A) any relationships between foreign governments or organizations and organizations based in Colombia that have been designated as foreign terrorist organizations under United States law, including the provision of any direct or indirect assistance to such organizations; and

(B) United States policies that are designed to address such relationships.

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

SEC. 1022. SENSE OF CONGRESS AND REPORT REGARDING COUNTER-DRUG EFFORTS IN AFGHANISTAN.

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

(1) the President should make the substantial reduction of illegal drug trafficking in Afghanistan a priority in the Global War on Terrorism;

(2) the Secretary of Defense, in coordination with the Secretary of State and the heads of other appropriate Federal agencies, should expand cooperation with the Government of Afghanistan and international organizations involved in counter-drug activities to assist in providing a secure environment for counter-drug personnel in Afghanistan; and

(3) the United States, in conjunction with the Government of Afghanistan and coalition partners, should undertake additional efforts to reduce illegal drug trafficking and related activities that provide financial support for terrorist organizations in Afghanistan and neighboring countries.

(b) REPORT REQUIRED.—(1) The Secretary of Defense and the Secretary of State shall jointly prepare a report that describes—

(A) the progress made towards substantially reducing poppy cultivation and heroin production capabilities in Afghanistan; and

(B) the extent to which profits from illegal drug activity in Afghanistan are used to financially support terrorist organizations and groups seeking to undermine the Government of Afghanistan.

(2) The report required by this subsection shall be submitted to Congress not later than 120 days after the date of the enactment of this Act.

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Subtitle E—Reports

SEC. 1041.[7] QUARTERLY DETAILED ACCOUNTING FOR OPERATIONS CONDUCTED AS PART OF THE GLOBAL WAR ON TERRORISM.

(a) QUARTERLY ACCOUNTING.—Not later than 45 days after the end of each quarter of a year, the Secretary of Defense shall submit to the congressional defense committees, for each operation specified in subsection (b)—

[7] 10 U.S.C. 229 note.

(1) a full accounting of all costs incurred for such operation during such quarter and all amounts expended during such quarter for such operation; and

(2) a description of the purposes for which those costs were incurred and those amounts were expended.

(b) OPERATIONS COVERED.—The operations referred to in subsection (a) are the following:

(1) Operation Iraqi Freedom.

(2) Operation Enduring Freedom.

(3) Operation Noble Eagle.

(4) Any other operation that the President designates as being an operation of the Global War on Terrorism.

(c) REQUIREMENT FOR COMPREHENSIVENESS.—For the purpose of providing a full and complete accounting of the costs and expenditures under subsection (a) for an operation specified in subsection (b), the Secretary shall account in the quarterly submission under subsection (a) for all costs and expenditures that are reasonably attributable to that operation, including personnel costs.

SEC. 1042. REPORT ON POST-MAJOR COMBAT OPERATIONS PHASE OF OPERATION IRAQI FREEDOM.

(a) REPORT REQUIRED.—(1) Not later than June 1, 2005, the Secretary of Defense shall submit to the congressional defense committees a report on the conduct of military operations during the post-major combat operations phase of Operation Iraqi Freedom.

(2) The report shall be prepared in consultation with the Chairman of the Joint Chiefs of Staff, the commander of the United States Central Command, and such other officials as the Secretary considers appropriate.

(b) CONTENT.—(1) The report shall include a discussion of the matters described in paragraph (2), with a particular emphasis on accomplishments and shortcomings and on near-term and long-term corrective actions to address such shortcomings.

(2) The matters to be discussed in the report are as follows:

(A) The military and political objectives of the international coalition conducting the post-major combat operations phase of Operation Iraqi Freedom, and the military strategy selected to achieve such objectives, together with an assessment of the execution of the military strategy.

(B) The mobilization process for the reserve components of the Armed Forces, including the timeliness of notification, training and certification, and subsequent demobilization.

(C) The use and performance of major items of United States military equipment, weapon systems, and munitions (including non-lethal weapons and munitions, items classified under special access procedures, and items drawn from prepositioned stocks) and any expected effects of the experience with the use and performance of such items on the doctrinal and tactical employment of such items and on plans for continuing the acquisition of such items.

(D) Any additional requirements for military equipment, weapon systems, munitions, force structure, or other capability identified during the post-major combat operations phase of Operation Iraqi Freedom, including changes in type or quantity for future operations.

(E) The effectiveness of joint air operations, together with an assessment of the effectiveness of—

(i) the employment of close air support; and

(ii) attack helicopter operations.

(F) The use of special operations forces, including operational and intelligence uses.

(G) The scope of logistics support, including support to and from other nations and from international organizations and organizations and individuals from the private sector in Iraq.

(H) The incidents of accidental fratricide, including a discussion of the effectiveness of the tracking of friendly forces and the use of the combat identification systems in mitigating friendly fire incidents.

(I) The adequacy of spectrum and bandwidth to transmit information to operational forces and assets, including unmanned aerial vehicles, ground vehicles, and individual soldiers.

(J) The effectiveness of strategic, operational, and tactical information operations, including psychological operations and assets, organization, and doctrine related to civil affairs, in achieving established objectives, together with a description of technological and other restrictions on the use of information operations capabilities.

(K) The readiness of the reserve component forces used in the post-major combat operations phase of Operation Iraqi Freedom, including an assessment of the success of the reserve component forces in accomplishing their missions.

(L) The adequacy of intelligence support during the post-major combat operations phase of Operation Iraqi Freedom, including the adequacy of such support in searches for weapons of mass destruction.

(M) The rapid insertion and integration, if any, of developmental but mission-essential equipment, organizations, or procedures during the post-major combat operations phase of Operation Iraqi Freedom.

(N) A description of the coordination, communication, and unity of effort between the Armed Forces, the Coalition Provisional Authority, other United States government agencies and organizations, nongovernmental organizations, and political, security, and nongovernmental organizations of Iraq, including an assessment of the effectiveness of such efforts.

(O) The adequacy of training for military units once deployed to the area of operations of the United States Central Command, including training for changes in unit mission and continuation training for high-intensity conflict missions.

(P) An estimate of the funding required to return or replace equipment used through the period covered by the report in Operation Iraqi Freedom, including equipment in prepositioned stocks, to mission-ready condition.

(Q) A description of military civil affairs and reconstruction efforts, including efforts through the Commanders Emergency Response Program, and an assessment of the effectiveness of such efforts and programs.

(R) The adequacy of the requirements determination and acquisition processes, acquisition, and distribution of force protection equipment, including personal gear, vehicles, helicopters, and defense devices.

(S) The most critical lessons learned that could lead to long-term doctrinal, organizational, and technological changes, and the probable effects that an implementation of those changes would have on current visions, goals, and plans for transformation of the Armed Forces or the Department of Defense.

(T) The planning for and implementation of morale, welfare, and recreation programs for deployed forces and support to dependents, including rest and recuperation programs and personal communication benefits such as telephone, mail, and email services, including an assessment of the effectiveness of such programs.

(U) An analysis of force rotation plans, including individual personnel and unit rotations, differing deployment lengths, and in-theater equipment repair and leave behinds.

(V) The organization of United States Central Command to conduct post-conflict operations and lessons for other combatant commands to conduct other such operations in the future.

(c) FORM OF REPORT.—The report shall be submitted in unclassified form, but may include a classified annex.

(d) POST-MAJOR COMBAT OPERATIONS PHASE OF OPERATION IRAQI FREEDOM DEFINED.—In this section, the term "post-major combat operations phase of Operation Iraqi Freedom" means the period of Operation Iraqi Freedom beginning on May 2, 2003, and ending on December 31, 2004.

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SEC. 1047 REPORT ON AL QAEDA AND ASSOCIATED GROUPS IN LATIN AMERICA AND THE CARIBBEAN.

(a) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall, in consultation with the Secretary of State, submit to the Committees on Armed Services of the Senate and House of Representatives a report on the activities of al Qaeda and associated groups in Latin America and the Caribbean, including—

(1) an assessment of the extent to which such groups have established a presence in the area;

(2) a description of the activities of such groups in the area, including fundraising, money laundering, narcotrafficking, and associations with criminal groups;

(3) an assessment of the threat posed by such groups to the peace and stability of the nations in the area and to United States interests; and

(4) a description of United States policies intended to deal with such a threat.

(b) FORM OF REPORT.—The report shall be submitted in unclassified form, but may include a classified annex.

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Subtitle I—Other Matters

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SEC. 1091.[8] SENSE OF CONGRESS AND POLICY CONCERNING PERSONS DETAINED BY THE UNITED STATES.

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

(1) the abuses inflicted upon detainees at the Abu Ghraib prison in Baghdad, Iraq, are inconsistent with the professionalism, dedication, standards, and training required of individuals who serve in the United States Armed Forces;

(2) the vast majority of members of the Armed Forces have upheld the highest possible standards of professionalism and morality in the face of illegal tactics and terrorist attacks and attempts on their lives;

(3) the abuse of persons in United States custody in Iraq is appropriately condemned and deplored by the American people;

(4) the Armed Forces are moving swiftly and decisively to identify, try, and, if found guilty, punish persons who perpetrated such abuse;

(5) the Department of Defense and appropriate military authorities must continue to undertake corrective action, as appropriate, to address chain-of-command deficiencies and the systemic deficiencies identified in the incidents in question;

(6) the Constitution, laws, and treaties of the United States and the applicable guidance and regulations of the United States Government prohibit the torture or cruel, inhuman, or degrading treatment of foreign prisoners held in custody by the United States;

(7) the alleged crimes of a handful of individuals should not detract from the commendable sacrifices of over 300,000 members of the Armed Forces who have served, or who are serving, in Operation Iraqi Freedom; and

(8) no detainee shall be subject to torture or cruel, inhuman, or degrading treatment or punishment that is prohibited by the Constitution, laws, or treaties of United States.

(b) POLICY.—It is the policy of the United States to—

(1) ensure that no detainee shall be subject to torture or cruel, inhuman, or degrading treatment or punishment that is prohibited by the Constitution, laws, or treaties of the United States;

(2) investigate and prosecute, as appropriate, all alleged instances of unlawful treatment of detainees in a manner consistent with the international obligations, laws, or policies of the United States;

(3) ensure that all personnel of the United States Government understand their obligations in both wartime and peacetime to comply with the legal prohibitions against torture, cruel, inhuman, or degrading treatment of detainees in the custody of the United States;

(4) ensure that, in a case in which there is doubt as to whether a detainee is entitled to prisoner of war status under

[8] 10 U.S.C. 801 note.

the Geneva Conventions, such detainee receives the protections accorded to prisoners of war until the detainee's status is determined by a competent tribunal; and

(5) expeditiously process and, if appropriate, prosecute detainees in the custody of the United States, including those in the custody of the United States Armed Forces at Guantanamo Bay, Cuba.

(c) DETAINEES.—For purposes of this section, the term "detainee" means a person in the custody or under the physical control of the United States as a result of armed conflict.

SEC. 1092.[9] ACTIONS TO PREVENT THE ABUSE OF DETAINEES.

(a) POLICIES REQUIRED.—The Secretary of Defense shall ensure that policies are prescribed not later than 150 days after the date of the enactment of this Act regarding procedures for Department of Defense personnel and contractor personnel of the Department of Defense intended to ensure that members of the Armed Forces, and all persons acting on behalf of the Armed Forces or within facilities of the Armed Forces, treat persons detained by the United States Government in a humane manner consistent with the international obligations and laws of the United States and the policies set forth in section 1091(b).

(b) MATTERS TO BE INCLUDED.—In order to achieve the objective stated in subsection (a), the policies under that subsection shall specify, at a minimum, procedures for the following:

(1) Ensuring that each commander of a Department of Defense detention facility or interrogation facility—

(A) provides all assigned personnel with training, and documented acknowledgment of receiving training, regarding the law of war, including the Geneva Conventions; and

(B) establishes standard operating procedures for the treatment of detainees.

(2) Ensuring that each Department of Defense contract in which contract personnel in the course of their duties interact with individuals detained by the Department of Defense on behalf of the United States Government include a requirement that such contract personnel have received training, and documented acknowledgment of receiving training, regarding the international obligations and laws of the United States applicable to the detention of personnel.

(3) Providing all detainees with information, in their own language, of the applicable protections afforded under the Geneva Conventions.

(4) Conducting periodic unannounced and announced inspections of detention facilities in order to provide continued oversight of interrogation and detention operations.

(5) Ensuring that, to the maximum extent practicable, detainees and detention facility personnel of a different gender are not alone together.

(c) SECRETARY OF DEFENSE CERTIFICATION.—The Secretary of Defense shall certify that all Federal employees and civilian contractors engaged in the handling or interrogation of individuals detained by the Department of Defense on behalf of the United States

[9] 10 U.S.C. 801 note.

Government have fulfilled an annual training requirement on the law of war, the Geneva Conventions, and the obligations of the United States under international law.

SEC. 1093. REPORTING REQUIREMENTS.

(a) TRANSMISSION OF REGULATIONS, ETC.—Not later than 30 days after the date on which regulations, policies, and orders are first prescribed under section 1092(a), the Secretary of Defense shall transmit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives copies of such regulations, policies, or orders, together with a report on steps taken to the date of the report to implement section 1092.

(b) ONE-YEAR IMPLEMENTATION REPORT.—Not later than one year after the date on which regulations, policies, and orders are first prescribed under section 1092(a), the Secretary shall submit to such committees a report on further steps taken to implement section 1092 to the date of such report.

(c) ANNUAL REPORT.—Nine months after the date of the enactment of this Act and annually thereafter, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report for the preceding 12-months containing the following:

(1) Notice of any investigation into any violation of international obligations or laws of the United States regarding the treatment of individuals detained by the United States Armed Forces or by a person providing services to the Department of Defense on a contractual basis, if the notice will not compromise any ongoing criminal or administrative investigation or prosecution.

(2) General information on the foreign national detainees in the custody of the Department of Defense during the 12-month period covered by the report, including the following:

(A) The best estimate of the Secretary of Defense of the total number of detainees in the custody of the Department as of the date of the report.

(B) The best estimate of the Secretary of Defense of the total number of detainees released from the custody of the Department during the period covered by the report.

(C) An aggregate summary of the number of persons detained as enemy prisoners of war, civilian internees, and unlawful combatants, including information regarding the average length of detention for persons in each category.

(D) An aggregate summary of the nationality of persons detained.

(E) Aggregate information as to the transfer of detainees to the jurisdiction of other countries, and the countries to which transferred.

(d) CLASSIFICATION OF REPORTS.—Reports submitted under this section shall be submitted, to the extent practicable, in unclassified form, but may include a classified annex as necessary to protect the national security of the United States.

(e) TERMINATION.—The requirements of this section shall cease to be in effect on December 31, 2007.

SEC. 1094. FINDINGS AND SENSE OF CONGRESS CONCERNING ARMY SPECIALIST JOSEPH DARBY.

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

(1) The need to act in accord with one's conscience, risking one's career and even the esteem of one's colleagues by pursuing what is right is especially important today.

(2) While the Department of Defense investigates the horrific abuses in American detention facilities in Iraq, the Nation should bear in mind that the abuses were only brought to light because of the courage of an American soldier.

(3) By alerting his superiors to abuses at Abu Ghraib prison in Iraq, Army Specialist Joseph Darby demonstrated the courage to speak out and do what is right for his country.

(4) Such an action is especially important in light of the many challenges facing the country.

(5) Specialist Darby deserves the Nation's thanks for speaking up and for standing up for what is right.

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

(1) the Secretary of Defense should make every protection available to Army Specialist Joseph Darby and others who demonstrate such courage; and

(2) Specialist Darby should be commended appropriately by the Secretary of the Army.

* * * * * * *

TITLE XII—MATTERS RELATING TO OTHER NATIONS

SUBTITLE A—MATTERS RELATING TO IRAQ, AFGHANISTAN, AND GLOBAL WAR ON TERRORISM

Sec. 1201. Commanders' Emergency Response Program.
Sec. 1202. Assistance to Iraq and Afghanistan military and security forces.
Sec. 1203. Redesignation and modification of authorities relating to Inspector General of the Coalition Provisional Authority.
Sec. 1204. Presidential report on strategy for stabilization of Iraq.
Sec. 1205. Guidance on contractors supporting deployed forces in Iraq.
Sec. 1206. Report on contractors supporting deployed forces and reconstruction efforts in Iraq.
Sec. 1207. United Nations Oil-for-Food Program.
Sec. 1208. Support of military operations to combat terrorism.

SUBTITLE B—COUNTERPROLIFERATION MATTERS

Sec. 1211. Defense international counterproliferation programs.
Sec. 1212. Policy and sense of Congress on nonproliferation of ballistic missiles.
Sec. 1213. Sense of Congress on the global partnership against the spread of weapons of mass destruction.
Sec. 1214. Report on collaborative measures to reduce the risks of a launch of Russian nuclear weapons.

SUBTITLE C—OTHER MATTERS

Sec. 1221. Authority for humanitarian assistance for the detection and clearance of landmines extended to include other explosive remnants of war.
Sec. 1222. Expansion of entities of the People's Republic of China subject to certain presidential authorities when operating in the United States.
Sec. 1223. Assignment of NATO naval personnel to submarine safety programs.
Sec. 1224. Availability of Warsaw Initiative Funds for new NATO members.
Sec. 1225. Bilateral exchanges and trade in defense articles and defense services between the United States and the United Kingdom and Australia.
Sec. 1226. Study on missile defense cooperation.

Subtitle A—Matters Relating to Iraq, Afghanistan, and Global War on Terrorism

SEC. 1201. COMMANDERS' EMERGENCY RESPONSE PROGRAM.

(a) FISCAL YEAR 2005 AUTHORITY.—During fiscal year 2005, from funds made available to the Department of Defense for operation and maintenance pursuant to title XV, not to exceed $500,000,000 [10] may be used to provide funds—

(1) for the Commanders' Emergency Response Program, established by the Administrator of the Coalition Provisional Authority for the purpose of enabling United States military commanders in Iraq to respond to urgent humanitarian relief and reconstruction requirements within their areas of responsibility by carrying out programs that will immediately assist the Iraqi people; and

(2) for a similar program to assist the people of Afghanistan.

(b) QUARTERLY REPORTS.—Not later than 15 days after the end of each fiscal-year quarter (beginning with the first quarter of fiscal year 2005), the Secretary of Defense shall submit to the congressional defense committees a report regarding the source of funds and the allocation and use of funds during that quarter that were made available pursuant to the authority provided in this section or under any other provision of law for the purposes stated in subsection (a).

(c) WAIVER AUTHORITY.—For purposes of the exercise of the authority provided by this section or any other provision of law making funding available for the Commanders' Emergency Response Program referred to in subsection (a) (including a program referred to in paragraph (2) of that subsection), the Secretary may waive any provision of law not contained in this section that would (but for the waiver) prohibit, restrict, limit, or otherwise constrain the exercise of that authority.

(d) REVIEW OF LAWS.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report identifying all provisions of law that (if not waived) would prohibit, restrict, limit, or otherwise constrain the exercise of the authority provided in this section or any other provision of law using funds available for the purposes stated in subsection (a).

SEC. 1202. ASSISTANCE TO IRAQ AND AFGHANISTAN MILITARY AND SECURITY FORCES.

(a) AUTHORITY.—The Secretary of Defense may provide assistance under this section to Iraq and Afghanistan military and security forces. Such assistance shall be provided, subject to the provisions of this section, solely to enhance the ability of such forces to combat terrorism and support United States or coalition military operations in Iraq and Afghanistan, respectively.

(b) TYPE OF ASSISTANCE.—Assistance provided under subsection (a) may include equipment, supplies, services, and training.

(c) LIMITATIONS.—Assistance under this section or under any other provision of law for the purpose described in subsection (a)

[10] Sec. 102 of division J of the Consolidated Appropriations Act, 2005 (Public Law 108–447; 118 Stat. 2809) struck out "$300,000,000" and inserted in lieu thereof "$500,000,000".

may be provided only from funds available to the Department of Defense for fiscal year 2005 for operation and maintenance under title XV. The total amount of such assistance may not exceed $500,000,000.

(d) CONGRESSIONAL NOTIFICATION.—Before any provision of assistance under this section or any other provision of law for the purpose described in subsection (a), the Secretary of Defense shall submit to the congressional defense committees a notification of the assistance proposed to be provided. Any such notification shall be submitted not less than 15 days before the provision of such assistance.

(e) MILITARY AND SECURITY FORCES DEFINED.—For purposes of this section, the term "military and security forces" means national armies, national guard forces, border security forces, civil defense forces, infrastructure protection forces, and police.

SEC. 1203. REDESIGNATION AND MODIFICATION OF AUTHORITIES RELATING TO INSPECTOR GENERAL OF THE COALITION PROVISIONAL AUTHORITY. * * *[11]

(b) CONTINUATION IN OFFICE.—The individual serving as the Inspector General of the Coalition Provisional Authority as of the date of the enactment of this Act may continue to serve in that position after that date without reappointment under paragraph (1) of section 3001(c) of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004, but remaining subject to removal as specified in paragraph (4) of that section.

SEC. 1204. PRESIDENTIAL REPORT ON STRATEGY FOR STABILIZATION OF IRAQ.

(a) STABILIZATION STRATEGY.—Not later than 120 days after the date of the enactment of this Act, the President shall submit to Congress an unclassified report (with classified annex, if necessary) on the strategy of the United States and coalition forces for stabilizing Iraq. The report shall contain a detailed explanation of the strategy, together with the following:

(1) A description of the efforts of the President to work with the United Nations to provide support for, and assistance to, the transitional government in Iraq and, in particular, the efforts of the President to negotiate and secure adoption by the United Nations Security Council of Resolution 1546.

(2) A description of the efforts of the President to continue to work with North Atlantic Treaty Organization (NATO) member states and non-NATO member states to provide support for and augment coalition forces, including—

(A) the current military forces of coalition countries deployed to Iraq;

(B) the current police forces of coalition countries deployed to Iraq;

(C) the current financial resources of coalition countries pledged and provided for the stabilization and reconstruction of Iraq; and

[11] Sec. 1203, other than subsec. (b), amended sec. 3001 of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1234; 5 U.S.C. App. 3 section 8G note).

(D) a list of countries that have pledged to deploy military or police forces, including the schedule and level of such deployments.

(3) The strategic plan referred to in subsection (b) relating to Iraqi security forces.

(4) A description of the efforts of the United States and coalition forces to assist in the reconstruction of essential infrastructure of Iraq, including the oil industry, electricity generation, roads, schools, and hospitals.

(5) A description of the efforts of the United States, coalition partners, and relevant international agencies to assist in the development of political institutions and prepare for democratic elections in Iraq.

(6) A description of the obstacles, including financial, technical, logistic, personnel, political, and other obstacles, faced by NATO in generating and deploying military forces out of theater to locations such as Iraq.

(b) IRAQI SECURITY FORCES.—The President shall include in the report under subsection (a) a strategic plan setting forth the manner in which the coaltion[12] will achieve the goal of establishing viable and professional Iraqi security forces able to provide for the long-term security of the Iraqi people. That strategic plan shall include at least the following:

(1) Recruiting and retention goals, shown for each service of the Iraqi security forces.

(2) Training plans for each service of the Iraqi security forces.

(3) A description of metrics by which progress toward the goal of Iraqi provision for its own security can be measured.

(4) A description of equipment needs, shown for each service of the Iraqi security forces.

(5) A resourcing plan for achieving the goals of the strategic plan.

(6) Personnel plans in terms of United States military and contractor personnel to be used in training each such service.

(7) A description of challenges faced and opportunities presented in particular regions of Iraq and a plan for addressing those challenges.

(8) A discussion of training and deployment successes and failures to the date of the report and how lessons from those successes and failures will be incorporated into the strategic plan.

(c) QUARTERLY REPORTS.—Not later than 30 days after the end of each quarter of calendar year 2005, the Secretary of Defense shall submit to the Congress a report on the actions taken under the strategic plan set forth pursuant to subsection (b) since the date of the enactment of this Act. Each such report shall be prepared in conjunction with the Secretary of State.

SEC. 1205. GUIDANCE ON CONTRACTORS SUPPORTING DEPLOYED FORCES IN IRAQ.

(a) GUIDANCE.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall issue guidance

[12] As enrolled. Should read "coalition".

on how the Department of Defense shall manage contractor personnel who support deployed forces and shall direct the Secretaries of the military departments to develop procedures to ensure implementation of that guidance. The guidance shall—

(1) establish policies for the use of contractors to support deployed forces;

(2) delineate the roles and responsibilities of commanders regarding the management and oversight of contractor personnel who support deployed forces; and

(3) integrate into a single document other guidance and doctrine that may affect Department of Defense responsibilities to contractors in locations where members of the Armed Forces are deployed.

(b) ISSUES TO BE ADDRESSED.—The guidance issued under subsection (a) shall address at least the following matters:

(1) Warning contractor security personnel of potentially hazardous situations.

(2) Coordinating the movement of contractor security personnel, especially through areas of increased risk or planned or ongoing military operations.

(3) Rapidly identifying contractor security personnel by members of the Armed Forces.

(4) Sharing relevant threat information with contractor security personnel and receiving information gathered by contractor security personnel for use by United States and coalition forces.

(5) Providing appropriate assistance to contractor personnel who become engaged in hostile situations.

(6) Providing medical assistance for, and evacuation of, contractor personnel who become casualties as a result of enemy actions.

(7) Investigating background and qualifications of contractor security personnel and organizations.

(8) Establishing rules of engagement for armed contractor security personnel, and ensuring proper training and compliance with the rules of engagement.

(9) Establishing categories of security, intelligence, law enforcement, and criminal justice functions that are—

(A) inherently governmental functions under Subpart 7.5 of the Federal Acquisition Regulation; or

(B) although not inherently governmental functions, should not ordinarily be performed by contractors in areas of operations.

(10) Establishing procedures for making and documenting determinations about which security, intelligence, law enforcement, and criminal justice functions will be performed by military personnel and which will be performed by private companies.

(c) REPORT.—Not later than 30 days after issuing the guidance required under subsection (a), the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the guidance issued under subsection (a).

SEC. 1206. REPORT ON CONTRACTORS SUPPORTING DEPLOYED FORCES AND RECONSTRUCTION EFFORTS IN IRAQ.

(a) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on contractors supporting deployed forces and reconstruction efforts in Iraq.

(b) MATTERS TO BE INCLUDED.—The report required by subsection (a) shall include, at a minimum, the following matters with respect to contractors, and employees of contractors, described in subsection (a):

(1) A description of the overall chain of command and oversight mechanisms that are in place to ensure adequate command and supervision of such contractor employees in critical security roles.

(2) A description of sanctions that are available to be imposed on such a contractor employee who—

(A) fails to comply with a requirement of law or regulation that applies to such employee; or

(B) engages in other misconduct.

(3) A description of disciplinary and criminal actions brought against contractor employees during the period beginning on May 1, 2003, and ending on the date of the enactment of this Act.

(4) An explanation of the legal status of contractor employees engaged in the performance of security functions in Iraq after the transfer of sovereign power to Iraq on June 28, 2004.

(5) A specification of casualty and fatality figures for contractor employees supporting deployed forces and reconstruction efforts in Iraq, shown, to the extent practicable, in the following categories:

(A) Total casualties and total fatalities.

(B) Casualties and fatalities among—

(i) nationals of the United States;

(ii) nationals of Iraq; and

(iii) nationals of states other than the United States and Iraq.

(6) A description, to the maximum extent practicable, of incidents in which contractor employees supporting deployed forces and reconstruction efforts in Iraq have been engaged in hostile fire or other incidents of note during the period beginning on May 1, 2003, and ending on the date of the enactment of this Act.

(c) PLANS.—The Secretary shall include with the report under subsection (a) the following plans:

(1) A plan for establishing and implementing a process for collecting data on individual contractors, the value of the contracts, the number of casualties incurred, and the number of personnel in Iraq performing the following services for the Department of Defense and other Federal agencies:

(A) Personal security details.

(B) Nonmilitary site security.

(C) Nonmilitary convoy security.

(D) Interrogation services at interrogation centers operated by the Department of Defense.

(2) A plan for ensuring that military commanders in the theater of operations have accurate information on the number, types, and sources of weapons and other critical equipment (such as body armor, armored vehicles, secure communications and friend-foe identification) that contractor personnel performing services specified in paragraph (1) are authorized to possess.

(d) COORDINATION.—In the preparation of the report under this section (including the plans under subsection (c)), the Secretary of Defense shall coordinate, as appropriate, with the head of any Federal agency that is involved in the procurement of services from contractors supporting deployed forces and reconstruction efforts in Iraq. The head of any such agency shall provide to the Secretary of Defense such information as the Secretary may require about such contractors to complete the report.

SEC. 1207. UNITED NATIONS OIL-FOR-FOOD PROGRAM.

(a) ACCESS TO DOCUMENTS.—It is the sense of Congress that the Secretary of State should seek to conclude a memorandum of understanding with the Interim Government of Iraq to ensure that the United States will have access to all documents in the possession of that Government related to the United Nations Oil-for-Food Program.

(b) INFORMATION FROM THE UNITED NATIONS.—(1) The Secretary of State shall use the voice and vote of the United States in the United Nations to urge the Secretary General of the United Nations to provide to the United States copies of all audits and core documents related to the United Nations Oil-for-Food Program, including all audits, examinations, studies, reviews, or similar documents prepared by the United Nations Office of Internal Oversight Services and all responses to such documents.

(2) It is the sense of Congress that, pursuant to section 941(b)(6) of the United Nations Reform Act of 1999 (title IX of division A of H.R. 3427 of the 106th Congress, as enacted into law by section 1000(a)(7) of Public Law 106–113; 113 Stat. 1501A–483), the Comptroller General should have full and complete access to financial information relating to the United Nations, including information related to the financial transactions, organization, and activities of the United Nations Oil-for-Food Program.

(3) The Secretary of State shall facilitate access by the Comptroller General to the financial information described in paragraph (2).

(c) COOPERATION IN INVESTIGATIONS.—The head of any Executive agency (including the Secretary of State, the Secretary of Defense, the Secretary of the Treasury, and the Director of the Central Intelligence Agency) shall, upon a request in connection with an investigation of the United Nations Oil-for-Food Program made by a committee of jurisdiction of the Senate or House of Representatives, promptly provide to the chairman of that committee—

(1) access to any information or document described in subsection (a) or (b) that is under the control of such agency and responsive to the request; and

(2) cooperation in gaining access to information and documents described in subsections (a) and (b) that are not under the control of such agency, as appropriate.

(d) REVIEW OF OIL-FOR-FOOD PROGRAM BY COMPTROLLER GENERAL.—(1) The Comptroller General shall conduct a review of the United Nations Oil-for-Food Program, including the role of the United States in that program. The review—

(A) in accordance with generally accepted government auditing standards, should not interfere with any ongoing criminal investigation or inquiry related to that program; and

(B) may take into account the results of any investigation or inquiry related to that program.

(2) The head of each Executive agency shall fully cooperate with the review of the Comptroller General under paragraph (1).

(e) EXECUTIVE AGENCY DEFINED.—In this section, the term "Executive agency" has the meaning given that term in section 105 of title 5, United States Code.

SEC. 1208 SUPPORT OF MILITARY OPERATIONS TO COMBAT TERRORISM.

(a) AUTHORITY.—The Secretary of Defense may expend up to $25,000,000 during any fiscal year during which this subsection is in effect to provide support to foreign forces, irregular forces, groups, or individuals engaged in supporting or facilitating ongoing military operations by United States special operations forces to combat terrorism.

(b) PROCEDURES.—The Secretary of Defense shall establish procedures for the exercise of the authority under subsection (a). The Secretary shall notify the congressional defense committees of those procedures before any exercise of that authority.

(c) NOTIFICATION.—Upon using the authority provided in subsection (a) to make funds available for support of an approved military operation, the Secretary of Defense shall notify the congressional defense committees expeditiously, and in any event in not less than 48 hours, of the use of such authority with respect to that operation. Such a notification need be provided only once with respect to any such operation. Any such notification shall be in writing.

(d) LIMITATION ON DELEGATION.—The authority of the Secretary of Defense to make funds available under subsection (a) for support of a military operation may not be delegated.

(e) INTELLIGENCE ACTIVITIES.—This section does not constitute authority to conduct a covert action, as such term is defined in section 503(e) of the National Security Act of 1947 (50 U.S.C. 413b(e)).

(f) ANNUAL REPORT.—Not later than 30 days after the close of each fiscal year during which subsection (a) is in effect, the Secretary of Defense shall submit to the congressional defense committees a report on support provided under that subsection during that fiscal year. Each such report shall describe the support provided, including a statement of the recipient of the support and the amount obligated to provide the support.

(g) FISCAL YEAR 2005 LIMITATION.—Support may be provided under subsection (a) during fiscal year 2005 only from funds made available for operations and maintenance pursuant to title XV of this Act.

(h) PERIOD OF AUTHORITY.—The authority under subsection (a) is in effect during each of fiscal years 2005 through 2007.

Subtitle B—Counterproliferation Matters

SEC. 1211. DEFENSE INTERNATIONAL COUNTERPROLIFERATION PROGRAMS.

(a) INTERNATIONAL SECURITY PROGRAM TO PREVENT UNAUTHORIZED TRANSFER AND TRANSPORTATION OF WMDS.—Subsection (b) of section 1424 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2333) is amended to read as follows: * * *

(b) INTERNATIONAL TRAINING PROGRAM TO DETER WMD PROLIFERATION.—Section 1504(e)(3)(A) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2918) is amended—* * *

SEC. 1212.[13] POLICY AND SENSE OF CONGRESS ON NONPROLIFERATION OF BALLISTIC MISSILES.

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

(1) Certain countries are seeking to acquire ballistic missiles and related technologies that could be used to attack the United States or place at risk United States interests, deployed members of the Armed Forces, and allies of the United States and other friendly foreign countries.

(2) Certain countries continue to actively transfer or sell ballistic missile technologies in contravention of standards of behavior established by the United States and allies of the United States and other friendly foreign countries.

(3) The spread of ballistic missiles and related technologies worldwide has been slowed by a combination of national and international export controls, forward-looking diplomacy, and multilateral interdiction activities to restrict the development and transfer of such missiles and technologies.

(b) POLICY.—It is the policy of the United States to develop, support, and strengthen international accords and other cooperative efforts to curtail the proliferation of ballistic missiles and related technologies which could threaten the territory of the United States, allies of the United States and other friendly foreign countries, and deployed members of the Armed Forces of the United States with weapons of mass destruction.

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

(1) the United States should vigorously pursue foreign policy initiatives aimed at eliminating, reducing, or retarding the proliferation of ballistic missiles and related technologies; and

(2) the United States and the international community should continue to support and strengthen established international accords and other cooperative efforts, including United Nations Security Council Resolution 1540 (April 28, 2004) and the Missile Technology Control Regime, that are designed to eliminate, reduce, or retard the proliferation of ballistic missiles and related technologies.

[13] 22 U.S.C. 2797 note.

SEC. 1213. SENSE OF CONGRESS ON THE GLOBAL PARTNERSHIP AGAINST THE SPREAD OF WEAPONS OF MASS DESTRUCTION.

(a) COMMENDATION OF PRESIDENT.—Congress commends the President for the steps taken at the G–8 summit at Sea Island, Georgia, on June 8–10, 2004—

(1) to demonstrate continued support for the Global Partnership against the Spread of Nuclear Weapons and Materials of Mass Destruction; and

(2) to expand the Partnership (A) by welcoming new members, and (B) by using the Partnership to coordinate nonproliferation projects in Libya, Iraq, and other countries.

(b) FUTURE ACTIONS.—It is the sense of Congress that the President should seek to—

(1) expand the membership of donor nations to the Global Partnership against the Spread of Nuclear Weapons and Materials of Mass Destruction;

(2) ensure that the Russian Federation remains the primary focus of the Partnership, but also seek to fund, through the Partnership, efforts in other countries that need assistance to secure or dismantle their own potentially vulnerable weapons or materials;

(3) develop for the Partnership clear program goals;

(4) develop for the Partnership transparent project prioritization and planning;

(5) develop for the Partnership project implementation milestones under periodic review;

(6) develop under the Partnership agreements between partners for project implementation; and

(7) give high priority and senior-level attention to resolving disagreements on site access and worker liability under the Partnership.

SEC. 1214. REPORT ON COLLABORATIVE MEASURES TO REDUCE THE RISKS OF A LAUNCH OF RUSSIAN NUCLEAR WEAPONS.

Not later than November 1, 2005, the Secretary of Defense shall submit to Congress a report on collaborative measures between the United States and the Russian Federation to reduce the risks of a launch of a nuclear-armed ballistic missile as a result of accident, misinformation, miscalculation, or unauthorized use. The report shall provide—

(1) a description and assessment of the collaborative measures that are currently in effect;

(2) a description and assessment of other collaborative measures that could be pursued in the future;

(3) an assessment of the potential contributions of such collaborative measures to the national security of the United States;

(4) an assessment of the effect of such collaborative measures on relations between the United States and the Russian Federation;

(5) a description of the obstacles and opportunities associated with pursuing such collaborative measures; and

(6) an assessment of the future of the Joint Data Exchange Center.

Subtitle C—Other Matters

SEC. 1221. AUTHORITY FOR HUMANITARIAN ASSISTANCE FOR THE DETECTION AND CLEARANCE OF LANDMINES EXTENDED TO INCLUDE OTHER EXPLOSIVE REMNANTS OF WAR.

(a) EXTENSION OF AUTHORITY.—Subsection (e)(5) of section 401 of title 10, United States Code, is amended * * *

(b) CONFORMING AMENDMENTS.—* * *

SEC. 1222. EXPANSION OF ENTITIES OF THE PEOPLE'S REPUBLIC OF CHINA SUBJECT TO CERTAIN PRESIDENTIAL AUTHORITIES WHEN OPERATING IN THE UNITED STATES.

Section 1237(b)(4)(B)(i) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (50 U.S.C. 1701 note) is amended—* * *

SEC. 1223. ASSIGNMENT OF NATO NAVAL PERSONNEL TO SUBMARINE SAFETY PROGRAMS.

(a) IN GENERAL.—Chapter 631 of title 10, United States Code, is amended by adding at the end the following new section:"

§ 7234. Submarine safety programs: participation of NATO naval personnel * * *

SEC. 1224. AVAILABILITY OF WARSAW INITIATIVE FUNDS FOR NEW NATO MEMBERS.

(a) AVAILABILITY OF FUNDS.—Of the amount authorized to be appropriated by section 301(5) for operation and maintenance, defense-wide activities, and available for the Defense Security Cooperation Agency for the Warsaw Initiative Funds (WIF), $4,000,000 may be available only in fiscal year 2005 for the participation of the North Atlantic Treaty Organization (NATO) members set forth in subsection (b) in the exercises and programs of the Partnership for Peace program of the North Atlantic Treaty Organization.

(b) NATO MEMBERS.—The North Atlantic Treaty Organization members set forth in this subsection are as follows:

(1) Bulgaria.
(2) Estonia.
(3) Latvia.
(4) Lithuania.
(5) Romania.
(6) Slovakia.
(7) Slovenia.

SEC. 1225.[14] BILATERAL EXCHANGES AND TRADE IN DEFENSE ARTICLES AND DEFENSE SERVICES BETWEEN THE UNITED STATES AND THE UNITED KINGDOM AND AUSTRALIA.

(a) POLICY.—It is the policy of Congress that bilateral exchanges and trade in defense articles and defense services between the United States and the United Kingdom and Australia are in the national security interest of the United States and that such exchanges and trade should be subjected to accelerated review and processing consistent with national security and the requirements of the Arms Export Control Act (22 U.S.C. 2751 et seq.).

(b) REQUIREMENT.—The Secretary of State shall ensure that any license application submitted for the export of defense articles or

[14] 22 U.S.C. 2751 note.

defense services to Australia or the United Kingdom is expeditiously processed by the Department of State, in consultation with the Department of Defense, without referral to any other Federal department or agency, except where the item is classified or exceptional circumstances apply.

(c) REGULATIONS.—The President shall ensure that regulations are prescribed to implement this section.

SEC. 1226. STUDY ON MISSILE DEFENSE COOPERATION.

(a) REQUIREMENT FOR STUDY.—The Secretary of Defense, in consultation with the Secretary of State, shall carry out a study to determine the advisability of authorizing or requiring—

(1) the Secretary of State to establish procedures for considering technical assistance agreements and related amendments and munitions license applications for the export of defense items related to missile defense not later than 30 days after receiving such agreements, amendments, and munitions license applications, except in cases in which the Secretary of State determines that additional time is required to complete a review of a technical assistance agreement or related amendment or a munitions license application for foreign policy or national security reasons, including concerns regarding the proliferation of ballistic missile technology; and

(2) the Secretary of Defense to establish procedures to increase the efficiency and transparency of the practices used by the Department of Defense to review technical assistance agreements and related amendments and munitions license applications related to international cooperation on missile defense that are referred to the Department.

(b) FEASIBILITY OF REQUIRING COMPREHENSIVE AUTHORIZATIONS FOR MISSILE DEFENSE.—In carrying out the study under subsection (a), the Secretary of Defense, in consultation with the Secretary of State, shall examine the feasibility of providing major project authorizations for programs related to missile defense similar to the comprehensive export authorization specified in section 126.14 of the International Traffic in Arms Regulations (section 126.14 of title 22, Code of Federal Regulations).

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall, in consultation with the Secretary of State, submit to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on Armed Services and the Committee on International Relations of the House of Representatives a report on the results of the study under subsection (a). The report shall include—

(1) the determinations resulting from the study, including a determination on the feasibility of providing the major project authorization for projects related to missile defense described in subsection (b); and

(2) a discussion of the justification for each such determination.

(d) DEFINITION OF DEFENSE ITEMS.—In this section, the term "defense items" has the meaning given that term in section 38(j)(4)(A) of the Arms Export Control Act (22 U.S.C. 2778(j)(4)(A)).

TITLE XIII—COOPERATIVE THREAT REDUCTION WITH STATES OF THE FORMER SOVIET UNION[15]

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TITLE XV—AUTHORIZATION FOR INCREASED COSTS DUE TO OPERATION IRAQI FREEDOM AND OPERATION ENDURING FREEDOM

Sec. 1501. Purpose.
Sec. 1502. Army procurement.
Sec. 1503. Navy and Marine Corps procurement.
Sec. 1504. Defense-wide activities procurement.
Sec. 1505. Operation and maintenance.
Sec. 1506. Defense working capital funds.
Sec. 1507. Iraq Freedom Fund.
Sec. 1508. Defense health program.
Sec. 1509. Military personnel.
Sec. 1510. Treatment as additional authorizations.
Sec. 1511. Transfer authority.

SEC. 1501. PURPOSE.

The purpose of this title is to authorize emergency appropriations for the Department of Defense for fiscal year 2005 to provide funds for additional costs due to Operation Iraqi Freedom and Operation Enduring Freedom. Funds in this title are available upon the enactment of this Act.

SEC. 1502. ARMY PROCUREMENT.

Funds are hereby authorized to be appropriated for fiscal year 2005 for procurement accounts of the Army in amounts as follows:

(1) For weapons and tracked combat vehicles, $50,000,000.
(2) For ammunition, $110,000,000.
(3) For other procurement, $755,000,000.
(4) For National Guard and Reserve equipment, $50,000,000.

SEC. 1503. NAVY AND MARINE CORPS PROCUREMENT.

(a) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 2005 for the procurement account for the Marine Corps in the amount of $150,000,000.

(b) NAVY AND MARINE CORPS AMMUNITION.—Funds are hereby authorized to be appropriated for fiscal year 2005 for the procurement account for ammunition for the Navy and the Marine Corps in the amount of $30,000,000.

SEC. 1504. DEFENSE-WIDE ACTIVITIES PROCUREMENT.

Funds are hereby authorized to be appropriated for fiscal year 2005 for the procurement account for Defense-wide procurement in the amount of $50,000,000.

SEC. 1505. OPERATION AND MAINTENANCE.

Funds are hereby authorized to be appropriated for fiscal year 2005 for the use of the Armed Forces for expenses, not otherwise provided for, operation and maintenance, in amounts as follows:

(1) For the Army, $13,550,000,000.
(2) For the Navy, $367,000,000.
(3) For the Marine Corps, $1,665,000,000.
(4) For the Air Force, $419,000,000.

[15] For text, see *Legislation on Foreign Relations Through 2004*, vol. II.

(5) For Defense-wide, $404,000,000.

SEC. 1506. DEFENSE WORKING CAPITAL FUNDS.

Funds are hereby authorized to be appropriated for fiscal year 2005 for Defense Working Capital Program in the amount of $1,478,000,000.

SEC. 1507. IRAQ FREEDOM FUND.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal year 2005 for the account of the Iraq Freedom Fund in amount of $3,892,000,000, to remain available for transfer to other accounts in this title until September 30, 2006. Amounts of authorization so transferred shall be merged with and be made available for the same purposes as the authorization to which transferred. Of the amounts provided in this section $1,800,000,000 shall only be used for classified programs.

(b) NOTICE TO CONGRESS.—A transfer may be made from the Iraq Freedom Fund only after the Secretary of Defense notifies the congressional defense committees with respect to the proposed transfer in writing not less than five days before the transfer is made.

SEC. 1508. DEFENSE HEALTH PROGRAM.

Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2005 for expenses, not otherwise provided for, the Defense Health Program, in the amount of $780,000,000, for Operation and Maintenance.

SEC. 1509. MILITARY PERSONNEL.

There is hereby authorized to be appropriated to the Department of Defense for military personnel accounts for fiscal year 2005 a total of $1,250,000,000.

SEC. 1510. TREATMENT AS ADDITIONAL AUTHORIZATIONS.

The amounts authorized to be appropriated by this title are in addition to amounts otherwise authorized to be appropriated by this Act.

SEC. 1511. TRANSFER AUTHORITY.

(a) AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this title for fiscal year 2005 between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations that the Secretary may transfer under the authority of this section may not exceed $1,500,000,000. The transfer authority provided in this section is in addition to any other transfer authority available to the Secretary of Defense.

(b) LIMITATIONS.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred;

(2) may not be used to provide authority for an item that has been denied authorization by Congress; and

(3) may not be combined with the authority under section 1001.

(c) EFFECT ON AUTHORIZATION AMOUNTS.—A transfer made from one account to another under the authority of this section shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(d) NOTICE TO CONGRESS.—A transfer may be made under the authority of this section only after the Secretary of Defense—

(1) consults with the chairmen and ranking members of the congressional defense committees with respect to the proposed transfer; and

(2) after such consultation, notifies those committees in writing of the proposed transfer not less than five days before the transfer is made.

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DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

* * * * * * *

Subtitle C—Proliferation Matters

SEC. 3131.[16] MODIFICATION OF AUTHORITY TO USE INTERNATIONAL NUCLEAR MATERIALS PROTECTION AND COOPERATION PROGRAM FUNDS OUTSIDE THE FORMER SOVIET UNION.

(a) APPLICABILITY OF AUTHORITY LIMITED TO PROJECTS NOT PREVIOUSLY AUTHORIZED.—Subsection (a) of section 3124 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1747) is amended * * *

(b) REPEAL OF LIMITATION ON TOTAL AMOUNT OF OBLIGATION.—Such section is further amended—* * *

(c) APPLICABILITY BEYOND FISCAL YEAR 2004.—Subsection (e) of such section (as redesignated by subsection (b)) is amended * * *

SEC. 3132.[17] ACCELERATION OF REMOVAL OR SECURITY OF FISSILE MATERIALS, RADIOLOGICAL MATERIALS, AND RELATED EQUIPMENT AT VULNERABLE SITES WORLDWIDE.

(a) SENSE OF CONGRESS.—(1) It is the sense of Congress that the security, including the rapid removal or secure storage, of high-risk, proliferation-attractive fissile materials, radiological materials, and related equipment at vulnerable sites worldwide should be a top priority among the activities to achieve the national security of the United States.

(2) It is the sense of Congress that the President may establish in the Department of Energy a task force to be known as the Task

[16] 50 U.S.C. 2568.
[17] 50 U.S.C. 2569.

Force on Nuclear Materials to carry out the program authorized by subsection (b).

(b) PROGRAM AUTHORIZED.—The Secretary of Energy may carry out a program to undertake an accelerated, comprehensive worldwide effort to mitigate the threats posed by high-risk, proliferation-attractive fissile materials, radiological materials, and related equipment located at sites potentially vulnerable to theft or diversion.

(c) PROGRAM ELEMENTS.—(1) Activities under the program under subsection (b) may include the following:

(A) Accelerated efforts to secure, remove, or eliminate proliferation-attractive fissile materials or radiological materials in research reactors, other reactors, and other facilities worldwide.

(B) Arrangements for the secure shipment of proliferation-attractive fissile materials, radiological materials, and related equipment to other countries willing to accept such materials and equipment, or to the United States if such countries cannot be identified, and the provision of secure storage or disposition of such materials and equipment following shipment.

(C) The transportation of proliferation-attractive fissile materials, radiological materials, and related equipment from sites identified as proliferation risks to secure facilities in other countries or in the United States.

(D) The processing and packaging of proliferation-attractive fissile materials, radiological materials, and related equipment in accordance with required standards for transport, storage, and disposition.

(E) The provision of interim security upgrades for vulnerable, proliferation-attractive fissile materials, radiological materials, and related equipment pending their removal from their current sites.

(F) The utilization of funds to upgrade security and accounting at sites where proliferation-attractive fissile materials or radiological materials will remain for an extended period of time in order to ensure that such materials are secure against plausible potential threats and will remain so in the future.

(G) The management of proliferation-attractive fissile materials, radiological materials, and related equipment at secure facilities.

(H) Actions to ensure that security, including security upgrades at sites and facilities for the storage or disposition of proliferation-attractive fissile materials, radiological materials, and related equipment, continues to function as intended.

(I) The provision of technical support to the International Atomic Energy Agency (IAEA), other countries, and other entities to facilitate removal of, and security upgrades to facilities that contain, proliferation-attractive fissile materials, radiological materials, and related equipment worldwide.

(J) The development of alternative fuels and irradiation targets based on low-enriched uranium to convert research or

other reactors fueled by highly-enriched uranium to such alternative fuels, as well as the conversion of reactors and irradiation targets employing highly-enriched uranium to employment of such alternative fuels and targets.

(K) Accelerated actions for the blend down of highly-enriched uranium to low-enriched uranium.

(L) The provision of assistance in the closure and decommissioning of sites identified as presenting risks of proliferation of proliferation-attractive fissile materials, radiological materials, and related equipment.

(M) Programs to—

(i) assist in the placement of employees displaced as a result of actions pursuant to the program in enterprises not representing a proliferation threat; and

(ii) convert sites identified as presenting risks of proliferation regarding proliferation-attractive fissile materials, radiological materials, and related equipment to purposes not representing a proliferation threat to the extent necessary to eliminate the proliferation threat.

(2) The Secretary of Energy shall, in coordination with the Secretary of State, carry out the program in consultation with, and with the assistance of, appropriate departments, agencies, and other entities of the United States Government.

(3) The Secretary of Energy shall, with the concurrence of the Secretary of State, carry out activities under the program in collaboration with such foreign governments, non-governmental organizations, and other international entities as the Secretary of Energy considers appropriate for the program.

(d) REPORTS.—(1) Not later than March 15, 2005, the Secretary of Energy shall submit to Congress a classified interim report on the program under subsection (b).

(2) Not later than January 1, 2006, the Secretary shall submit to Congress a classified final report on the program under subsection (b) that includes the following:

(A) A survey by the Secretary of the facilities and sites worldwide that contain proliferation-attractive fissile materials, radiological materials, or related equipment.

(B) A list of sites determined by the Secretary to be of the highest priority, taking into account risk of theft from such sites, for removal or security of proliferation-attractive fissile materials, radiological materials, or related equipment, organized by level of priority.

(C) A plan, including activities under the program under this section, for the removal, security, or both of proliferation-attractive fissile materials, radiological materials, or related equipment at vulnerable facilities and sites worldwide, including measurable milestones, metrics, and estimated costs for the implementation of the plan.

(3) A summary of each report under this subsection shall also be submitted to Congress in unclassified form.

(e) FUNDING.—Amounts authorized to be appropriated to the Secretary of Energy for defense nuclear nonproliferation activities shall be available for purposes of the program under this section.

(f) DEFINITIONS.—In this section:

(1) The term "fissile materials" means plutonium, highly-enriched uranium, or other material capable of sustaining an explosive nuclear chain reaction, including irradiated items containing such materials if the radiation field from such items is not sufficient to prevent the theft or misuse of such items.

(2) The term "radiological materials" includes Americium-241, Californium-252, Cesium-137, Cobalt-60, Iridium-192, Plutonium-238, Radium-226, Strontium-90, Curium-244, and irradiated items containing such materials, or other materials designated by the Secretary of Energy for purposes of this paragraph.

(3) The term "related equipment" includes equipment useful for enrichment of uranium in the isotope 235 and for extraction of fissile materials from irradiated fuel rods and other equipment designated by the Secretary of Energy for purposes of this section.

(4) The term "highly-enriched uranium" means uranium enriched to or above 20 percent in the isotope 235.

(5) The term "low-enriched uranium" means uranium enriched below 20 percent in the isotope 235.

(6) The term "proliferation-attractive", in the case of fissile materials and radiological materials, means quantities and types of such materials that are determined by the Secretary of Energy to present a significant risk to the national security of the United States if diverted to a use relating to proliferation.

SEC. 3133.[18] SILK ROAD INITIATIVE.

(a) PROGRAM AUTHORIZED.—(1) The Secretary of Energy may carry out a program, to be known as the Silk Road Initiative, to promote non-weapons-related employment opportunities for scientists, engineers, and technicians formerly engaged in activities to develop and produce weapons of mass destruction in Silk Road nations. The program should—

(A) incorporate best practices under the Initiatives for Proliferation Prevention program; and

(B) facilitate commercial partnerships between private entities in the United States and scientists, engineers, and technicians in the Silk Road nations.

(2) Before implementing the program with respect to multiple Silk Road nations, the Secretary of Energy shall carry out a pilot program with respect to one Silk Road nation selected by the Secretary. It is the sense of Congress that the Secretary should select the Republic of Georgia.

(b) SILK ROAD NATIONS DEFINED.—In this section, the Silk Road nations are Armenia, Azerbaijan, the Republic of Georgia, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan.

(c) FUNDING.—Of the funds authorized to be appropriated to the Department of Energy for nonproliferation and international security for fiscal year 2005, up to $10,000,000 may be used to carry out this section.

[18] 50 U.S.C. 2570.

SEC. 3134.[19] NUCLEAR NONPROLIFERATION FELLOWSHIPS FOR SCIENTISTS EMPLOYED BY UNITED STATES AND RUSSIAN FEDERATION.

(a) IN GENERAL.—(1) From amounts made available to carry out this section, the Administrator for Nuclear Security may carry out a program under which the Administrator awards, to scientists employed at nonproliferation research laboratories of the Russian Federation and the United States, international exchange fellowships, to be known as Nuclear Nonproliferation Fellowships, in the nuclear nonproliferation sciences.

(2) The purpose of the program shall be to provide opportunities for advancement in the nuclear nonproliferation sciences to scientists who, as demonstrated by their academic or professional achievements, show particular promise of making significant contributions in those sciences.

(3) A fellowship awarded to a scientist under the program shall be for collaborative study and training or advanced research at—

(A) a nonproliferation research laboratory of the Russian Federation, in the case of a scientist employed at a nonproliferation research laboratory of the United States; and

(B) a nonproliferation research laboratory of the United States, in the case of a scientist employed at a nonproliferation research laboratory of the Russian Federation.

(4) The duration of a fellowship under the program may not exceed two years, except that the Administrator may provide for a longer duration in an individual case to the extent warranted by extraordinary circumstances, as determined by the Administrator.

(5) In a calendar year, the Administrator may not award more than—

(A) one fellowship to a scientist employed at a nonproliferation research laboratory of the Russian Federation; and

(B) one fellowship to a scientist employed at a nonproliferation research laboratory of the United States.

(6) A fellowship under the program shall include—

(A) travel expenses; and

(B) any other expenses that the Administrator considers appropriate, such as room and board.

(b) DEFINITIONS.—In this section:

(1) The term "nonproliferation research laboratory" means, with respect to a country, a national laboratory of that country at which research in the nuclear nonproliferation sciences is carried out.

(2) The term "nuclear nonproliferation sciences" means bodies of scientific knowledge relevant to developing or advancing the means to prevent or impede the proliferation of nuclear weaponry.

(3) The term "scientist" means an individual who has a degree from an institution of higher education in a science that has practical application in the nuclear nonproliferation sciences.

[19] 50 U.S.C. 2571.

(c) FUNDING.—Amounts available to the Department of Energy for defense nuclear nonproliferation activities shall be available for the fellowships authorized by subsection (a).

SEC. 3135. UTILIZATION OF INTERNATIONAL CONTRIBUTIONS TO THE ELIMINATION OF WEAPONS GRADE PLUTONIUM PRODUCTION PROGRAM.

Section 3151 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2736; 22 U.S.C. 5952 note) is amended * * *

* * * * * * *

c. Department of Defense Appropriations Act, 2005

Partial text of Public Law 108–287 [H.R. 4613], 118 Stat. 951, approved August 5, 2004; amended by Public Law 108–324 [Military Construction Appropriations and Emergency Hurricane Supplemental Appropriations Act, 2005; H.R. 4837], 118 Stat. 1220, approved October 13, 2004

AN ACT Making appropriations for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes.

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

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2005, for military functions administered by the Department of Defense, and for other purposes, namely:

* * * * * * *

TITLE II

OPERATION AND MAINTENANCE

* * * * * * *

OVERSEAS CONTINGENCY OPERATIONS TRANSFER ACCOUNT

For expenses directly relating to Overseas Contingency Operations by United States military forces, $10,000,000, to remain available until expended: *Provided,* That the Secretary of Defense may transfer these funds only to military personnel accounts; operation and maintenance accounts within this title; the Defense Health Program appropriation; procurement accounts; research, development, test and evaluation accounts; and to working capital funds: *Provided further,* That the funds transferred shall be merged with and shall be available for the same purposes and for the same time period, as the appropriation to which transferred: *Provided further,* That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further,* That the transfer authority provided in this paragraph is in addition to any other transfer authority contained elsewhere in this Act.

* * * * * * *

OVERSEAS HUMANITARIAN, DISASTER, AND CIVIC AID

For expenses relating to the Overseas Humanitarian, Disaster, and Civic Aid programs of the Department of Defense (consisting of the programs provided under sections 401, 402, 404, 2557, and 2561 of title 10, United States Code), $59,000,000, to remain available until September 30, 2006.

FORMER SOVIET UNION THREAT REDUCTION ACCOUNT

For assistance to the republics of the former Soviet Union, including assistance provided by contract or by grants, for facilitating the elimination and the safe and secure transportation and storage of nuclear, chemical and other weapons; for establishing programs to prevent the proliferation of weapons, weapons components, and weapon-related technology and expertise; for programs relating to the training and support of defense and military personnel for demilitarization and protection of weapons, weapons components and weapons technology and expertise, and for defense and military contacts, $409,200,000, to remain available until September 30, 2007: *Provided,* That of the amounts provided under this heading, $15,000,000 shall be available only to support the dismantling and disposal of nuclear submarines, submarine reactor components, and security enhancements for transport and storage of nuclear warheads in the Russian Far East.

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TITLE VI

OTHER DEPARTMENT OF DEFENSE PROGRAMS

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CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, ARMY

For expenses, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions in accordance with the provisions of section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), and for the destruction of other chemical warfare materials that are not in the chemical weapon stockpile, $1,372,990,000, of which $1,088,801,000 shall be for Operation and maintenance; $78,980,000 shall be for Procurement to remain available until September 30, 2007; $205,209,000 shall be for Research, development, test and evaluation to remain available until September 30, 2006; and no less than $137,404,000 may be for the Chemical Stockpile Emergency Preparedness Program, of which $44,631,000 shall be for activities on military installations and $92,773,000 shall be to assist State and local governments.

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For drug interdiction and counter-drug activities of the Department of Defense, for transfer to appropriations available to the Department of Defense for military personnel of the reserve components serving under the provisions of title 10 and title 32, United States Code; for Operation and maintenance; for Procurement; and for Research, development, test and evaluation, $906,522,000: *Provided,* That the funds appropriated under this heading shall be available for obligation for the same time period and for the same

purpose as the appropriation to which transferred: *Provided further,* That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further,* That the transfer authority provided under this heading is in addition to any other transfer authority contained elsewhere in this Act.

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TITLE VII

RELATED AGENCIES

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NATIONAL SECURITY EDUCATION TRUST FUND

For the purposes of title VIII of Public Law 102–183, $8,000,000, to be derived from the National Security Education Trust Fund, to remain available until expended.

TITLE VIII

GENERAL PROVISIONS

* * * * * * *

SEC. 8002.[1] During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense: *Provided,* That salary increases granted to direct and indirect hire foreign national employees of the Department of Defense funded by this Act shall not be at a rate in excess of the percentage increase authorized by law for civilian employees of the Department of Defense whose pay is computed under the provisions of section 5332 of title 5, United States Code, or at a rate in excess of the percentage increase provided by the appropriate host nation to its own employees, whichever is higher: *Provided further,* That this section shall not apply to Department of Defense foreign service national employees serving at United States diplomatic missions whose pay is set by the Department of State under the Foreign Service Act of 1980: *Provided further,* That the limitations of this provision shall not apply to foreign national employees of the Department of Defense in the Republic of Turkey.

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SEC. 8009.[2] Within the funds appropriated for the operation and maintenance of the Armed Forces, funds are hereby appropriated pursuant to section 401 of title 10, United States Code, for humanitarian and civic assistance costs under chapter 20 of title 10, United States Code. Such funds may also be obligated for humanitarian and civic assistance costs incidental to authorized operations and pursuant to authority granted in section 401 of chapter 20 of

[1] 10 U.S.C. 1584 note.
[2] 10 U.S.C. 401 note.

title 10, United States Code, and these obligations shall be reported as required by section 401(d) of title 10, United States Code: *Provided,* That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance by using Civic Action Teams in the Trust Territories of the Pacific Islands and freely associated states of Micronesia, pursuant to the Compact of Free Association as authorized by Public Law 99–239: *Provided further,* That upon a determination by the Secretary of the Army that such action is beneficial for graduate medical education programs conducted at Army medical facilities located in Hawaii, the Secretary of the Army may authorize the provision of medical services at such facilities and transportation to such facilities, on a nonreimbursable basis, for civilian patients from American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, Palau, and Guam.

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SEC. 8018.[3] Notwithstanding any other provision of law, during the current fiscal year and hereafter, the Secretary of Defense may, by executive agreement, establish with host nation governments in NATO member states a separate account into which such residual value amounts negotiated in the return of United States military installations in NATO member states may be deposited, in the currency of the host nation, in lieu of direct monetary transfers to the United States Treasury: *Provided,* That such credits may be utilized only for the construction of facilities to support United States military forces in that host nation, or such real property maintenance and base operating costs that are currently executed through monetary transfers to such host nations: *Provided further,* That the Department of Defense's budget submission for subsequent fiscal years shall identify such sums anticipated in residual value settlements, and identify such construction, real property maintenance or base operating costs that shall be funded by the host nation through such credits: *Provided further,* That all military construction projects to be executed from such accounts must be previously approved in a prior Act of Congress: *Provided further,* That each such executive agreement with a NATO member host nation shall be reported to the congressional defense committees, the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate 30 days prior to the conclusion and endorsement of any such agreement established under this provision.

* * * * * * *

SEC. 8026. During the current fiscal year, the Department of Defense is authorized to incur obligations of not to exceed $350,000,000 for purposes specified in section 2350j(c) of title 10, United States Code, in anticipation of receipt of contributions, only from the Government of Kuwait, under that section: *Provided,* That upon receipt, such contributions from the Government of Kuwait

[3] 10 U.S.C. 2687 note.

shall be credited to the appropriations or fund which incurred such obligations.

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(RESCISSIONS)

SEC. 8049. Of the funds appropriated in Department of Defense Appropriations Acts, the following funds are hereby rescinded from the following accounts and programs in the specified amounts:

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"Former Soviet Union Threat Reduction, 2003/2005", $50,000,000;

* * * * * * *

SEC. 8051. None of the funds appropriated or otherwise made available in this Act may be obligated or expended for assistance to the Democratic People's Republic of North Korea unless specifically appropriated for that purpose.

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SEC. 8057.[4] (a) None of the funds available to the Department of Defense for any fiscal year for drug interdiction or counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

(b)[5] None of the funds available to the Central Intelligence Agency for any fiscal year for drug interdiction and counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

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SEC. 8064. (a) LIMITATION ON TRANSFER OF DEFENSE ARTICLES AND SERVICES.—Notwithstanding any other provision of law, none of the funds available to the Department of Defense for the current fiscal year may be obligated or expended to transfer to another nation or an international organization any defense articles or services (other than intelligence services) for use in the activities described in subsection (b) unless the congressional defense committees, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate are notified 15 days in advance of such transfer.

(b) COVERED ACTIVITIES.—This section applies to—

(1) any international peacekeeping or peace-enforcement operation under the authority of chapter VI or chapter VII of the United Nations Charter under the authority of a United Nations Security Council resolution; and

(2) any other international peacekeeping, peace-enforcement, or humanitarian assistance operation.

(c) REQUIRED NOTICE.—A notice under subsection (a) shall include the following:

[4] 10 U.S.C. 374 note.
[5] 50 U.S.C. 403f note.

(1) A description of the equipment, supplies, or services to be transferred.

(2) A statement of the value of the equipment, supplies, or services to be transferred.

(3) In the case of a proposed transfer of equipment or supplies—

(A) a statement of whether the inventory requirements of all elements of the Armed Forces (including the reserve components) for the type of equipment or supplies to be transferred have been met; and

(B) a statement of whether the items proposed to be transferred will have to be replaced and, if so, how the President proposes to provide funds for such replacement.

SEC. 8065.[6] To the extent authorized by subchapter VI of chapter 148 of title 10, United States Code, for the current fiscal year and hereafter the Secretary of Defense may issue loan guarantees in support of United States defense exports not otherwise provided for: *Provided,* That the total contingent liability of the United States for guarantees issued under the authority of this section may not exceed $15,000,000,000: *Provided further,* That the exposure fees charged and collected by the Secretary for each guarantee shall be paid by the country involved and shall not be financed as part of a loan guaranteed by the United States: *Provided further,* That the Secretary shall provide quarterly reports to the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate and the Committees on Appropriations, Armed Services, and International Relations in the House of Representatives on the implementation of this program: *Provided further,* That amounts charged for administrative fees and deposited to the special account provided for under section 2540c(d) of title 10, shall be available for paying the costs of administrative expenses of the Department of Defense that are attributable to the loan guarantee program under subchapter VI of chapter 148 of title 10, United States Code.

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SEC. 8067. Funds appropriated for the Department of Defense and for intelligence activities in this Act are available for transfer to the Department of State as remittance for a fee charged by the Department of State for fiscal year 2005 for the maintenance, upgrade, or construction of United States diplomatic facilities only to the extent that the amount of the fee so charged (when added to other amounts of such fees previously charged for that fiscal year) exceeds the total amount of the unreimbursed costs incurred by the departments and agencies funded by this Act during that fiscal year in providing goods and services to the Department of State.

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SEC. 8074. None of the funds made available in this Act may be used to approve or license the sale of the F–22 advanced tactical fighter to any foreign government.

SEC. 8075. (a) The Secretary of Defense may, on a case-by-case basis, waive with respect to a foreign country each limitation on the procurement of defense items from foreign sources provided in

[6] 10 U.S.C. 2540 note.

law if the Secretary determines that the application of the limitation with respect to that country would invalidate cooperative programs entered into between the Department of Defense and the foreign country, or would invalidate reciprocal trade agreements for the procurement of defense items entered into under section 2531 of title 10, United States Code, and the country does not discriminate against the same or similar defense items produced in the United States for that country.

(b) Subsection (a) applies with respect to—

(1) contracts and subcontracts entered into on or after the date of the enactment of this Act; and

(2) options for the procurement of items that are exercised after such date under contracts that are entered into before such date if the option prices are adjusted for any reason other than the application of a waiver granted under subsection (a).

(c) Subsection (a) does not apply to a limitation regarding construction of public vessels, ball and roller bearings, food, and clothing or textile materials as defined by section 11 (chapters 50–65) of the Harmonized Tariff Schedule and products classified under headings 4010, 4202, 4203, 6401 through 6406, 6505, 7019, 7218 through 7229, 7304.41 through 7304.49, 7306.40, 7502 through 7508, 8105, 8108, 8109, 8211, 8215, and 9404.

SEC. 8076. (a) PROHIBITION.—None of the funds made available by this Act may be used to support any training program involving a unit of the security forces of a foreign country if the Secretary of Defense has received credible information from the Department of State that the unit has committed a gross violation of human rights, unless all necessary corrective steps have been taken.

(b) MONITORING.—The Secretary of Defense, in consultation with the Secretary of State, shall ensure that prior to a decision to conduct any training program referred to in subsection (a), full consideration is given to all credible information available to the Department of State relating to human rights violations by foreign security forces.

(c) WAIVER.—The Secretary of Defense, after consultation with the Secretary of State, may waive the prohibition in subsection (a) if he determines that such waiver is required by extraordinary circumstances.

(d) REPORT.—Not more than 15 days after the exercise of any waiver under subsection (c), the Secretary of Defense shall submit a report to the congressional defense committees describing the extraordinary circumstances, the purpose and duration of the training program, the United States forces and the foreign security forces involved in the training program, and the information relating to human rights violations that necessitates the waiver.

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SEC. 8114. None of the funds appropriated in this Act under the heading "Overseas Contingency Operations Transfer Account" may be transferred or obligated for Department of Defense expenses not directly related to the conduct of overseas contingencies: *Provided,* That the Secretary of Defense shall submit a report no later than 30 days after the end of each fiscal quarter to the Committees on

Appropriations of the Senate and House of Representatives that details any transfer of funds from the "Overseas Contingency Operations Transfer Account": *Provided further,* That the report shall explain any transfer for the maintenance of real property, pay of civilian personnel, base operations support, and weapon, vehicle or equipment maintenance.

* * * * * * *

SEC. 8124. None of the funds provided in this Act shall be available for integration of foreign intelligence information unless the information has been lawfully collected and processed during the conduct of authorized foreign intelligence activities: *Provided,* That information pertaining to United States persons shall only be handled in accordance with protections provided in the Fourth Amendment of the United States Constitution as implemented through Executive Order No. 12333.

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SEC. 8138. It is the sense of the Senate that—

(1) any request for funds for a fiscal year for an ongoing military operation overseas, including operations in Afghanistan and Iraq, should be included in the annual budget of the President for such fiscal year as submitted to Congress under section 1105(a) of title 31, United States Code; and

(2) any funds provided for such fiscal year for such a military operation should be provided in appropriations Acts for such fiscal year through appropriations to specific accounts set forth in such Acts.

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TITLE IX

ADDITIONAL WAR-RELATED APPROPRIATIONS

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OPERATION AND MAINTENANCE

* * * * * * *

IRAQ FREEDOM FUND

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Iraq Freedom Fund", $3,800,000,000, to remain available for transfer until September 30, 2006, only to support operations in Iraq or Afghanistan and classified activities: *Provided,* That the Secretary of Defense may transfer the funds provided herein to appropriations for military personnel; operation and maintenance; Overseas Humanitarian, Disaster, and Civic Aid; procurement; research, development, test and evaluation; the Defense Health Program; and working capital funds: *Provided further,* That of the amounts provided under this heading, $1,800,000,000 shall only be for classified programs, described in further detail in the classified annex accompanying this Act: *Provided further,* That up to $100,000,000 shall be available for the Department of Homeland Security, "United States Coast

Guard, Operating Expenses": *Provided further,* That funds transferred shall be merged with and be available for the same purposes and for the same time period as the appropriation or fund to which transferred: *Provided further,* That this transfer authority is in addition to any other transfer authority available to the Department of Defense: *Provided further,* That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further,* That the Secretary of Defense shall, not fewer than 5 days prior to making transfers from this appropriation, notify the congressional defense committees in writing of the details of any such transfer: *Provided further,* That the Secretary shall submit a report no later than 30 days after the end of each fiscal quarter to the congressional defense committees summarizing the details of the transfer of funds from this appropriation.

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GENERAL PROVISIONS, TITLE IX

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SEC. 9006. Notwithstanding any other provision of law, from funds made available in this title to the Department of Defense for operation and maintenance, not to exceed $500,000,000 may be used by the Secretary of Defense, with the concurrence of the Secretary of State, to train, equip and provide related assistance only to the New Iraqi Army and the Afghan National Army to enhance their capability to combat terrorism and to support U.S. military operations in Iraq and Afghanistan: *Provided,* That such assistance may include the provision of equipment, supplies, services, training and funding: *Provided further,* That the authority to provide assistance under this section is in addition to any other authority to provide assistance to foreign nations: *Provided further,* That the Secretary of Defense shall notify the congressional defense committees, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate not less than 15 days before providing assistance under the authority of this section.

SEC. 9007. From funds made available in this title to the Department of Defense, not to exceed $300,000,000 may be used, notwithstanding any other provision of law, to fund the Commander's Emergency Response Program, for the purpose of enabling military commanders in Iraq to respond to urgent humanitarian relief and reconstruction requirements within their areas of responsibility by carrying out programs that will immediately assist the Iraqi people, and to fund a similar program to assist the people of Afghanistan: *Provided,* That the Secretary of Defense shall provide quarterly reports to the congressional defense committees regarding the source of funds and the allocation and use of funds made available pursuant to the authority provided in this section.

SEC. 9008. Section 202(b) of the Afghanistan Freedom Support Act of 2002 (Public Law 107–327, as amended by section 2206 of Public Law 108–106) is amended by striking "$450,000,000" and inserting in lieu thereof "$550,000,000".

SEC. 9009. During the current fiscal year, funds available to the Department of Defense for operation and maintenance may be used, notwithstanding any other provision of law, to provide supplies, services, transportation, including airlift and sealift, and other logistical support to coalition forces supporting military and stability operations in Iraq and Afghanistan: *Provided,* That the Secretary of Defense shall provide quarterly reports to the congressional defense committees regarding support provided under this section.

SEC. 9010.[7] (a) Not later than April 30 and October 31 of each year, the Secretary of Defense shall submit to Congress a report on the military operations of the Armed Forces and the reconstruction activities of the Department of Defense in Iraq and Afghanistan.

(b) Each report shall include the following information:

(1) For each of Iraq and Afghanistan for the half-fiscal year ending during the month preceding the due date of the report, the amount expended for military operations of the Armed Forces and the amount expended for reconstruction activities, together with the cumulative total amounts expended for such operations and activities.

(2) An assessment of the progress made toward preventing attacks on United States personnel.

(3) An assessment of the effects of the operations and activities in Iraq and Afghanistan on the readiness of the Armed Forces.

(4) An assessment of the effects of the operations and activities in Iraq and Afghanistan on the recruitment and retention of personnel for the Armed Forces.

(5) For the half-fiscal year ending during the month preceding the due date of the report, the costs incurred for repair of Department of Defense equipment used in the operations and activities in Iraq and Afghanistan.

(6) The foreign countries, international organizations, and nongovernmental organizations that are contributing support for the ongoing military operations and reconstruction activities, together with a discussion of the amount and types of support contributed by each during the half-fiscal year ending during the month preceding the due date of the report.

(7) The extent to which, and the schedule on which, the Selected Reserve of the Ready Reserve of the Armed Forces is being involuntarily ordered to active duty under section 12302[8] of title 10, United States Code.

(8) For each unit of the National Guard of the United States and the other reserve components of the Armed Forces on active duty pursuant to an order to active duty under section 12302[8] of title 10, United States Code, the following information:

(A) The unit.

(B) The projected date of return of the unit to its home station.

[7] 10 U.S.C. 113 note.

[8] Sec. 306 of Public Law 108–324 (118 Stat. 1243) struck out "12304" and inserted in lieu thereof "12302".

(C) The extent (by percentage) to which the forces deployed within the United States and outside the United States in support of a contingency operation are composed of reserve component forces.

SEC. 9011. Congress, consistent with international and United States law, reaffirms that torture of prisoners of war and detainees is illegal and does not reflect the policies of the United States Government or the values of the people of the United States.

SEC. 9012. The President shall provide to the Congress a report detailing the estimated costs over the period from fiscal year 2006 to 2011 of Operation Iraqi Freedom and Operation Enduring Freedom, or any related military operations in and around Iraq and Afghanistan, and the estimated costs of reconstruction, internal security, and related economic support to Iraq and Afghanistan: *Provided,* That the President may waive the requirement to submit this report only if the President certifies in writing to the Congress that estimates of these future military and economic support costs cannot be provided for purposes of national security: *Provided further,* That the report referenced above shall be submitted no later than January 1, 2005.

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TITLE X

OTHER MATTERS

CHAPTER 1

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

For an additional amount for "Diplomatic and Consular Programs" for costs associated with United States Mission operations, technological support, logistical support, and necessary security costs in Iraq, $665,300,000, to remain available until expended.

EMBASSY SECURITY, CONSTRUCTION, AND MAINTENANCE

For an additional amount for "Embassy Security, Construction, and Maintenance" for interim facilities for the United States Mission in Iraq, $20,000,000, to remain available until expended.

GENERAL PROVISIONS, THIS CHAPTER

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SEC. 11004. Authorities contained in sections 402, 407, and 605 of division B of Public Law 108–199 shall also apply to amounts provided in this title for the Department of State.

CHAPTER 2

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

INTERNATIONAL DISASTER AND FAMINE ASSISTANCE

For an additional amount for "International Disaster and Famine Assistance", $70,000,000, to remain available until expended: *Provided,* That funds appropriated by this paragraph shall be available to respond to the humanitarian crisis in the Darfur region of Sudan and in Chad.

DEPARTMENT OF STATE

MIGRATION AND REFUGEE ASSISTANCE

For an additional amount for "Migration and Refugee Assistance", $25,000,000, to remain available until expended: *Provided,* That funds appropriated by this paragraph shall be available to respond to the humanitarian crisis in the Darfur region of Sudan and in Chad.

GENERAL PROVISIONS, THIS CHAPTER

SEC. 12001. (a)(1) Notwithstanding section 514 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321h), the President may transfer to Israel, in exchange for concessions to be negotiated by the Secretary of Defense, with the concurrence of the Secretary of State, any or all of the items described in paragraph (2).

(2) The items referred to in paragraph (1) are armor, artillery, automatic weapons ammunition, missiles, and other munitions that—

(A) are obsolete or surplus items;

(B) are in the inventory of the Department of Defense;

(C) are intended for use as reserve stocks for Israel; and

(D) as of the date of enactment of this Act, are located in a stockpile in Israel.

(b) The value of concessions negotiated pursuant to subsection (a) shall be at least equal to the fair market value of the items transferred. The concessions may include cash compensation, services, waiver of charges otherwise payable by the United States, and other items of value.

(c) Not later than 30 days before making a transfer under the authority of this section, the President shall transmit a notification of the proposed transfer to the Committees on Foreign Relations and Armed Services of the Senate and the Committees on International Relations and Armed Services of the House of Representatives. The notification shall identify the items to be transferred and the concessions to be received.

(d) No transfer may be made under the authority of this section more than 2 years after the date of the enactment of this Act.

SEC. 12002. Section 514(b)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321h(b)(2)) is amended—

(1) in subparagraph (A), by striking "for fiscal year 2003" and inserting "for each of fiscal years 2004 and 2005"; and

(2) in subparagraph (B), by striking "for fiscal year 2003" and inserting "for a fiscal year".

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CHAPTER 4

GENERAL PROVISIONS, THIS TITLE

SEC. 14001. Appropriations provided in this title are available for obligation until September 30, 2005, unless otherwise so provided in this title.

SEC. 14002. Funds in this title are available for obligation and authorities in this title shall apply upon enactment of this Act.

* * * * * * *

This Act may be cited as the "Department of Defense Appropriations Act, 2005".

d. National Defense Authorization Act for Fiscal Year 2004

Public Law 108–136 [H.R. 1588], 117 Stat. 1392, approved November 24, 2003; amended by Public Law 108–375 [Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005; H.R. 4200], 118 Stat. 1811, approved October 28, 2004

AN ACT To authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Defense Authorization Act for Fiscal Year 2004".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into three divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

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

SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.

For purposes of this Act, the term "congressional defense committees" means—

(1) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

(2) the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

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TITLE III—OPERATION AND MAINTENANCE

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Subtitle A—Authorization of Appropriations

SEC. 301. OPERATION AND MAINTENANCE FUNDING.

Funds are hereby authorized to be appropriated for fiscal year 2004 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows: * * *

(18) For Overseas Humanitarian, Disaster, and Civic Aid programs, $59,000,000.

(19) For Cooperative Threat Reduction programs, $450,800,000.

(20) Overseas Contingencies Program, $5,000,000.

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Subtitle B—Environmental Provisions

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SEC. 312. CLARIFICATION OF DEPARTMENT OF DEFENSE RESPONSE TO ENVIRONMENTAL EMERGENCIES.* * *[1]

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SEC. 324. COMPTROLLER GENERAL REVIEW OF ARCTIC MILITARY ENVIRONMENTAL COOPERATION PROGRAM.

(a) REQUIREMENT FOR REVIEW.—The Comptroller General shall conduct a review of the Arctic Military Environmental Cooperation program, including—

(1) the current and proposed technology development and demonstration role of the program in United States nonproliferation efforts; and

(2) the relationship of the program to the Cooperative Threat Reduction Program specified in section 1501(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2731; 50 U.S.C. 2362 note).

(b) ELEMENTS OF REVIEW.—The review shall include an assessment of the following:

(1) Whether the conditions in the Western Pacific region require an expansion of the Arctic Military Environmental Cooperation program to include that region.

(2) The extent to which foreign countries, including Russia, make financial contributions to the program.

(3) The extent to which the Cooperative Threat Reduction Program and the G–8 Global Partnership Against the Spread of Weapons and Materials of Mass Destruction Initiative use the program.

(4) Whether the program is important to the disarmament and nonproliferation functions of the Cooperative Threat Reduction Program.

(5) Future-year funding and program plans of the Department of Defense for the program.

(c) REPORT ON REVIEW.—Not later than May 1, 2004, the Comptroller General shall submit to Congress a report containing the results of the review.

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TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

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[1] Sec. 312 amended 10 U.S.C. 402 and 404; see page 622.

Subtitle A—Active Forces

SEC. 401.[2] END STRENGTHS FOR ACTIVE FORCES.

The Armed Forces are authorized strengths for active duty personnel as of September 30, 2004, as follows:

(1) The Army, 482,400.
(2) The Navy, 373,800.
(3) The Marine Corps, 175,000.
(4) The Air Force, 359,300.

SEC. 402. REVISION IN PERMANENT ACTIVE DUTY END STRENGTH MINIMUM LEVELS.

Section 691(b) of title 10, United States Code, is amended as follows: * * *

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TITLE X—GENERAL PROVISIONS

Subtitle A—Financial Matters

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SEC. 1003. AUTHORIZATION OF SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 2003.

(a) DOD AND DOE AUTHORIZATIONS.—Amounts authorized to be appropriated to the Department of Defense and the Department of Energy for fiscal year 2003 in the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107-314) are hereby adjusted, with respect to any such authorized amount, by the amount by which appropriations pursuant to such authorization are increased (by a supplemental appropriation) or decreased (by a rescission), or both, or are increased by a transfer of funds, pursuant to title I of Public Law 108–11.

(b) REPORT ON FISCAL YEAR 2003 TRANSFERS.—Not later than 30 days after the end of each fiscal quarter for which unexpended balances of funds appropriated under title I of Public Law 108–11 are available for the Department of Defense, the Secretary of Defense shall submit to the congressional defense committees a report stating, for each transfer of such funds during such fiscal quarter of an amount provided for the Department of Defense through a so-called "transfer account", including the Iraqi Freedom Fund or any other similar account—

(1) the amount of the transfer;
(2) the appropriation account to which the transfer was made; and
(3) the specific purpose for which the transferred funds were used or are to be used.

SEC. 1004. AUTHORIZATION OF SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 2004.

(a) DEPARTMENT OF DEFENSE AUTHORIZATIONS.—Amounts authorized to be appropriated to the Department of Defense for fiscal year 2004 in this Act are hereby increased, with respect to any such amount, by the amount by which the corresponding appropriation account of the Department of Defense for fiscal year 2004

[2] 10 U.S.C. 115 note.

is increased by a supplemental appropriation, or by a transfer of funds, pursuant to title I of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004.

(b) DESIGNATION AS EMERGENCY.—Amounts by which authorizations of appropriations are increased in accordance with subsection (a) are designated as emergency requirements pursuant to section 502 of House Concurrent Resolution 95 of the 108th Congress.

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SEC. 1006. REIMBURSEMENT RATE FOR CERTAIN AIRLIFT SERVICES PROVIDED TO DEPARTMENT OF STATE.

(a) AUTHORITY.—Subsection (a) of section 2642 of title 10, United States Code, is amended—

(1) by striking "(a) Authority" and all that follows through "the Department of Defense" the second place it appears and inserting the following:

"(a) AUTHORITY.—The Secretary of Defense may authorize the use of the Department of Defense reimbursement rate for military airlift services provided by a component of the Department of Defense as follows:

"(1) For military airlift services provided"; and

(2) by adding at the end the following new paragraph:

"(2) For military airlift services provided to the Department of State for the transportation of armored motor vehicles to a foreign country to meet requirements of the Department of State for armored motor vehicles associated with the overseas travel of the Secretary of State in that country.".

(b) CLERICAL AMENDMENTS.—* * *

SEC. 1007.[3] LIMITATION ON PAYMENT OF FACILITIES CHARGES ASSESSED BY DEPARTMENT OF STATE.

(a) COSTS OF GOODS AND SERVICES PROVIDED TO DEPARTMENT OF STATE.—Funds appropriated for the Department of Defense may be transferred to the Department of State as remittance for a fee charged to the Department of Defense by the Department of State for any year for the maintenance, upgrade, or construction of United States diplomatic facilities only to the extent that the amount charged (when added to other amounts previously so charged for that fiscal year) exceeds the total amount of the unreimbursed costs incurred by the Department of Defense during that year in providing goods and services to the Department of State.

(b) EFFECTIVE DATE.—Subsection (a) shall take effect as of October 1, 2003.

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[3] 10 U.S.C. 2241 note.

Subtitle C—Counterdrug Matters

SEC. 1021. EXPANSION AND EXTENSION OF AUTHORITY TO PROVIDE ADDITIONAL SUPPORT FOR COUNTER-DRUG ACTIVITIES. * * *[4]

SEC. 1022.[5] AUTHORITY FOR JOINT TASK FORCES TO PROVIDE SUPPORT TO LAW ENFORCEMENT AGENCIES CONDUCTING COUNTER-TERRORISM ACTIVITIES.

(a) AUTHORITY.—A joint task force of the Department of Defense that provides support to law enforcement agencies conducting counter-drug activities may also provide, subject to all applicable laws and regulations, support to law enforcement agencies conducting counter-terrorism activities.

(b) CONDITIONS.—Any support provided under subsection (a) may only be provided in the geographic area of responsibility of the joint task force.

SEC. 1023. USE OF FUNDS FOR UNIFIED COUNTERDRUG AND COUNTERTERRORISM CAMPAIGN IN COLOMBIA.

(a) AUTHORITY.—(1) In fiscal year 2004, funds available to the Department of Defense to provide assistance to the Government of Colombia may be used by the Secretary of Defense to support a unified campaign by the Government of Colombia against narcotics trafficking and against activities by organizations designated as terrorist organizations, such as the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), and the United Self-Defense Forces of Colombia (AUC).

(2) The authority to provide assistance for a campaign under this subsection includes authority to take actions to protect human health and welfare in emergency circumstances, including the undertaking of rescue operations.

(b) APPLICABILITY OF CERTAIN LAWS AND LIMITATIONS.—The use of funds pursuant to the authority in subsection (a) shall be subject to the following:

(1) Sections 556, 567, and 568 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107–115; 115 Stat. 2160, 2165, and 2166).

(2) Section 8077 of the Department of Defense Appropriations Act, 2004 (Public Law 108–87; 115 Stat. 2267).

(3) The numerical limitations on the number of United States military personnel and United States individual civilian contractors in section 3204(b)(1) of the Emergency Supplemental Act, 2000 (division B of Public Law 106–246; 114 Stat. 575), as amended by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107–115; 115 Stat. 2131).

(c) LIMITATION ON PARTICIPATION OF UNITED STATES PERSONNEL.—No United States Armed Forces personnel, United States civilian employees, or United States civilian contractor personnel

[4] Sec. 1021 amended sec. 1033 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1881); see page 930.

[5] 10 U.S.C. 371 note.

employed by the United States may participate in any combat operation in connection with assistance using funds pursuant to the authority in subsection (a), except for the purpose of acting in self defense or of rescuing any United States citizen, including any United States Armed Forces personnel, United States civilian employee, or civilian contractor employed by the United States.

(d) RELATION TO OTHER AUTHORITY.—The authority provided by subsection (a) is in addition to any other authority in law to provide assistance to the Government of Colombia.

SEC. 1024. SENSE OF CONGRESS ON RECONSIDERATION OF DECISION TO TERMINATE BORDER AND SEAPORT INSPECTION DUTIES OF NATIONAL GUARD UNDER NATIONAL GUARD DRUG INTERDICTION AND COUNTER-DRUG MISSION.

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

(1) The counter-drug inspection mission of the National Guard is highly important in preventing the entry of illegal narcotics into the United States.

(2) The expertise of members of the National Guard in conducting vehicle inspections at United States borders and seaports has contributed to the identification and seizure of illegal narcotics being smuggled into the United States.

(3) The support provided by the National Guard to the United States Customs Service and the Bureau of Border Security of the Department of Homeland Security greatly enhances the capability of these agencies to perform counter-terrorism surveillance and other border protection duties.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Defense should reconsider the decision of the Department of Defense to terminate the border inspection and seaport inspection duties of the National Guard as part of the drug interdiction and counter-drug mission of the National Guard.

Subtitle D—Reports

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SEC. 1032.[6] PLAN FOR PROMPT GLOBAL STRIKE CAPABILITY.

(a) INTEGRATED PLAN FOR PROMPT GLOBAL STRIKE CAPABILITY.—The Secretary of Defense shall establish an integrated plan for developing, deploying, and sustaining a prompt global strike capability in the Armed Forces. The Secretary shall update the plan annually.

(b) ANNUAL REPORTS.—(1) Not later than April 1 of each of 2004, 2005, and 2006, the Secretary shall submit to the congressional defense committees a report on the plan established under subsection (a).

(2) Each report under paragraph (1) shall include the following:

(A) A description and assessment of the targets against which long-range strike assets might be directed and the conditions under which those assets might be used.

(B) The role of, and plans for ensuring, sustainment and modernization of current long-range strike assets, including

[6] 10 U.S.C. 113 note.

bombers, intercontinental ballistic missiles, and submarine-launched ballistic missiles.

(C) A description of the capabilities desired for advanced long-range strike assets and plans to achieve those capabilities.

(D) A description of the capabilities desired for advanced conventional munitions and the plans to achieve those capabilities.

(E) An assessment of advanced nuclear concepts that could contribute to the prompt global strike mission.

(F) An assessment of the command, control, and communications capabilities necessary to support prompt global strike capabilities.

(G) An assessment of intelligence, surveillance, and reconnaissance capabilities necessary to support prompt global strike capabilities.

(H) A description of how prompt global strike capabilities are to be integrated with theater strike capabilities.

(I) An estimated schedule for achieving the desired prompt global strike capabilities.

(J) The estimated cost of achieving the desired prompt global strike capabilities.

(K) A description of ongoing and future studies necessary for updating the plan appropriately.

SEC. 1033.[7] ANNUAL REPORT CONCERNING DISMANTLING OF STRATEGIC NUCLEAR WARHEADS.

(a) ANNUAL REPORT.—Concurrent with the submission of the President's budget request to Congress each year, the Director of Central Intelligence shall submit to the committees specified in subsection (e) a report concerning dismantlement of Russian strategic nuclear warheads under the Moscow Treaty. Each such report shall discuss nuclear weapons dismantled by Russia during the prior fiscal year and the Director's projections for nuclear weapons to be dismantled by Russia during the current fiscal year and the fiscal year covered by the budget.

(b) CLASSIFICATION.—The annual report under this section shall be transmitted in an unclassified form when possible and classified form as necessary.

(c) TERMINATION OF REPORT REQUIREMENT.—The requirement to submit an annual report under this section terminates when the Moscow Treaty is no longer in effect.

(d) MOSCOW TREATY DEFINED.—For purposes of this section, the term "Moscow Treaty" means the Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions, done at Moscow on May 24, 2002.

(e) COMMITTEES SPECIFIED.—The committees to which annual reports are to be submitted under this section are the following:

(1) The Committee on Armed Services, the Select Committee on Intelligence, and the Committee on Foreign Relations of the Senate.

[7] 22 U.S.C. 5959 note.

(2) The Committee on Armed Services, the Permanent Select Committee on Intelligence, and the Committee on International Relations of the House of Representatives.

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TITLE XII—MATTERS RELATING TO OTHER NATIONS

Subtitle A—Matters Relating to Iraq

Sec. 1201. Medical assistance to Iraqi children injured during Operation Iraqi Freedom.
Sec. 1202. Report on the conduct of Operation Iraqi Freedom.
Sec. 1203. Report on Department of Defense security and reconstruction activities in Iraq.
Sec. 1204. Report on acquisition by Iraq of advanced weapons.
Sec. 1205. Sense of Congress on use of small businesses, minority-owned businesses, and women-owned businesses in efforts to rebuild Iraq.

Subtitle B—Matters Relating to Export Protections

Sec. 1211. Review of export protections for military superiority resources.
Sec. 1212. Report on Department of Defense costs relating to national security controls on satellite exports.

Subtitle C—Administrative Requirements and Authorities

Sec. 1221. Authority to use funds for payment of costs of attendance of foreign visitors under Regional Defense Counterterrorism Fellowship Program.
Sec. 1222. Recognition of superior noncombat achievements or performance by members of friendly foreign forces and other foreign nationals.
Sec. 1223. Expansion of authority to waive charges for costs of attendance at George C. Marshall European Center for Security Studies.
Sec. 1224. Authority for check cashing and currency exchange services to be provided to foreign military members participating in certain activities with United States forces.
Sec. 1225. Depot maintenance and repair work on certain types of trainer aircraft to be transferred to foreign countries as excess aircraft.

Subtitle D—Other Reports and Sense of Congress Statements

Sec. 1231. Annual report on the NATO Prague Capabilities Commitment and the NATO Response Force.
Sec. 1232. Report on actions that could be taken regarding countries that initiate certain legal actions against United States officials or members of the Armed Forces.
Sec. 1233. Sense of Congress on redeployment of United States forces in Europe.
Sec. 1234. Sense of Congress concerning Navy port calls in Israel.

Subtitle A—Matters Relating to Iraq

SEC. 1201. MEDICAL ASSISTANCE TO IRAQI CHILDREN INJURED DURING OPERATION IRAQI FREEDOM.

(a) ASSISTANCE.—Subject to subsections (c) and (d), the Secretary of Defense shall, to the maximum extent practicable, provide all necessary health care and related support to provide needed medical assistance to Iraqi children who, as determined by the Secretary of Defense, were injured during and as a result of Operation Iraqi Freedom. Such assistance shall be provided in an expeditious manner.

(b) RELATED SUPPORT.—Related support under subsection (a) includes transportation on aeromedical evacuation aircraft of the Department of Defense on a space-available basis.

(c) LIMITATIONS RELATING TO MEDICAL CARE.—Assistance may be provided to a child under subsection (a)—

(1) only if adequate treatment from other sources in Iraq or neighboring countries is not available; and

(2) only after completion of an evaluation by a physician or other appropriate medical personnel of the United States Armed Forces.

(d) LIMITATION RELATING TO UNITED STATES MILITARY OPERATIONS.—Assistance may be provided to a child under subsection (a) only if the provision of such assistance would not adversely affect military operations of the United States.

SEC. 1202. REPORT ON THE CONDUCT OF OPERATION IRAQI FREEDOM.

(a) REPORT REQUIRED.—(1) Not later than March 31, 2004, the Secretary of Defense shall submit to the congressional defense committees and the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate a report on the preparation for and conduct of military operations under Operation Iraqi Freedom from March 19, 2003, to May 1, 2003.

(2) The report shall be prepared in consultation with the Chairman of the Joint Chiefs of Staff, the commander of the United States Central Command, and such other officers and officials as the Secretary considers appropriate.

(b) CONTENT.—The report shall include a discussion, with a particular emphasis on accomplishments and shortcomings and on near-term and long-term corrective actions to address those shortcomings, of the following:

(1) The military objectives of the international coalition conducting Operation Iraqi Freedom, the military strategy selected to achieve the objectives, and an assessment of the execution of the military strategy.

(2) The deployment process, including the adaptability of the process to unforeseen contingencies and changing requirements.

(3) The effectiveness of the reserve component forces used in Operation Iraqi Freedom, including the reserve component mobilization process, the timeliness of mobilization notification, training, operational effectiveness in theater, and subsequent demobilization.

(4) The use and performance of major items of United States military equipment, weapon systems, and munitions (including items classified under special access procedures and items drawn from prepositioned stocks) and any expected effects of the experience with the use and performance of those items on the doctrinal and tactical employment of such items and on plans for continuing the acquisition of such items.

(5) The effectiveness of joint air operations, including the doctrine for the employment of close air support in the varied environments of Operation Iraqi Freedom, and the effectiveness of attack helicopter operations.

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

(7) The scope of logistics support, including support from other nations.

(8) The incidence of accidental fratricide, together with a discussion of the effectiveness of the tracking of friendly forces and of the combat identification systems in mitigating friendly fire incidents.

(9) The adequacy of spectrum and bandwidth to transmit all necessary information to operational forces and assets, including unmanned aerial vehicles, ground vehicles, and individual soldiers.

(10) The effectiveness of information operations, including the effectiveness of Commando Solo and other psychological operations assets, in achieving established objectives, together with a description of technological and other restrictions on the use of psychological operations capabilities.

(11) The adequacy of United States and coalition intelligence and counterintelligence systems and personnel, including contributions regarding bomb damage assessments and particularly including United States tactical intelligence and related activities (TIARA) programs and the Joint Military Intelligence Program (JMIP), as well as the adequacy of such support to facilitate searches for weapons of mass destruction.

(12) The rapid insertion and integration, if any, of developmental but mission-essential equipment during all phases of the operation.

(13) The most critical lessons learned that could lead to long-term doctrinal, organizational, and technological changes (including new equipment, weapons systems, and munitions) and the probable effects that an implementation of those changes would have on current visions, goals, and plans for transformation of the Armed Forces and for joint and combined operations.

(14) The role of the law of armed conflict in the planning and execution of military operations by United States forces and the other coalition forces and the effects on operations of Iraqi compliance or noncompliance with the law of armed conflict.

(15) The policies and procedures relating to the media, including the use of embedded media.

(16) The results of a study, carried out by the Secretary of Defense, regarding the availability of family support services provided for the dependents of members of the National Guard and other reserve components of the Armed Forces who are called or ordered to active duty.

(17) The direct and indirect cost of military operations, including an assessment of the total incremental expenditures made by the Department of Defense as a result of Operation Iraqi Freedom.

(c) FORMS OF REPORT.—The report shall be submitted in unclassified form with a classified annex, if necessary.

SEC. 1203. REPORT ON DEPARTMENT OF DEFENSE SECURITY AND RECONSTRUCTION ACTIVITIES IN IRAQ.

(a) REPORT REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the security and reconstruction activities of the Department of Defense in Iraq.

(b) REPORT ELEMENTS.—The report shall discuss the range of infrastructure reconstruction, civil administration, humanitarian assistance, interim governance, and political development activities undertaken in Iraq by officials of the Department and by those civilians reporting to the Secretary of Defense and the missions undertaken in Iraq by United States military forces. In particular, the report shall include a discussion of the following:

(1) The evolution of the organizational structure of the civilian groups reporting to the Secretary, including the Office of Reconstruction and Humanitarian Assistance and the Office of the Coalition Provisional Authority, on issues of Iraqi administration and reconstruction and the factors influencing that evolution.

(2) The relationship of the Department of Defense with other United States departments and agencies involved in administration and reconstruction planning and execution in Iraq.

(3) The relationship of Department of Defense entities, including the Office of Reconstruction and Humanitarian Assistance and the Office of the Coalition Provisional Authority, with intergovernmental and nongovernmental organizations contributing to the reconstruction and governance efforts.

(4) Progress made to the date of the report in—

(A) rebuilding Iraqi infrastructure;

(B) providing for the humanitarian needs of the Iraqi people;

(C) reconstituting the Iraqi governmental bureaucracy and its provision of services;

(D) developing mechanisms of fully transitioning Iraq to representative self-government; and

(E) recruiting, training, and fielding Iraqi police and military forces.

(5) Progress made to the date of the report by Department of Defense civilians and military personnel in accounting for any Iraqi weapons of mass destruction and associated weapons capabilities.

(6) Progress made to the date of the report by United States military personnel in providing security in Iraq and in transferring security functions to a reconstituted Iraqi police force and military.

(7) The Secretary's assessment of the scope of the ongoing needed commitment of United States military forces and of the remaining tasks to be completed by Department of Defense civilian personnel in the governance and reconstruction areas, including an estimate of the total expenditures the Department of Defense expects to make for security and reconstruction activities in Iraq.

(8) The Secretary's assessment of the effect that the United States military presence in Iraq will have on replacement and unit rotation policies, including the overall effect on global United States military deployments.

SEC. 1204.[8] REPORT ON ACQUISITION BY IRAQ OF ADVANCED WEAPONS.

(a) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and International Relations of the House of Representatives a report on the acquisition by Iraq of weapons of mass destruction and associated delivery systems and the acquisition by Iraq of advanced conventional weapons.

(b) MATTERS TO BE INCLUDED.—The report shall include the following:

(1) A description of any materials, technology, and know-how that Iraq was able to obtain for its nuclear, chemical, biological, ballistic missile, and unmanned aerial vehicle programs, and advanced conventional weapons programs, from 1979 through April 2003 from entities (including Iraqi citizens) outside of Iraq, as well as a description of how Iraq obtained these capabilities from those entities.

(2) An assessment of the degree to which United States, foreign, and multilateral export control regimes prevented acquisition by Iraq of weapons of mass destruction-related technology and materials and advanced conventional weapons and delivery systems since the commencement of international inspections in Iraq.

(3) An assessment of the effectiveness of United Nations sanctions at halting the flow of militarily-useful contraband to Iraq from 1991 until the end of Operation Iraqi Freedom.

(4) An assessment of how Iraq was able to evade International Atomic Energy Agency and United Nations inspections regarding chemical, nuclear, biological, and missile weapons and related capabilities.

(5) Identification and a catalog of the entities and countries that transferred militarily useful contraband and items described pursuant to paragraph (1) to Iraq between 1991 and the end of major combat operations of Operation Iraqi Freedom on May 1, 2003, and the nature of that contraband and of those items.

(c) FORM OF REPORT.—The report shall be submitted in unclassified form with a classified annex, if necessary.

SEC. 1205. SENSE OF CONGRESS ON USE OF SMALL BUSINESSES, MINORITY-OWNED BUSINESSES, AND WOMEN-OWNED BUSINESSES IN EFFORTS TO REBUILD IRAQ.

It is the sense of Congress that the Secretary of Defense should ensure that outreach procedures are in place to provide information to small businesses, minority-owned businesses, and women-owned businesses regarding Department of Defense requirements and contract opportunities for the rebuilding of Iraq.

[8] 10 U.S.C. 113 note.

Subtitle B—Matters Relating to Export Protections

SEC. 1211.[9] REVIEW OF EXPORT PROTECTIONS FOR MILITARY SUPERIORITY RESOURCES.

(a) REVIEW REQUIRED.—The Secretary of Defense shall carry out a review—

(1) to identify goods or technology (as defined in section 16 of the Export Administration Act of 1979 (50 U.S.C. App. 2415)) that, if obtained by a potential adversary, could significantly undermine the military superiority or qualitative military advantage of the United States over potential adversaries or otherwise contribute to the acquisition of weapons of mass destruction and their delivery systems; and

(2) to determine whether any of the items or technologies identified under paragraph (1) are not currently controlled for export purposes on either the Commerce Control List or the United States Munitions List.

(b) ANNUAL REPORTS.—(1) Not later than March 1, 2004, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives an unclassified report, with a classified annex as necessary, on the results of the review under subsection (a).

(2) For each of the next two years after the submission of the report under paragraph (1), the Secretary shall submit to those committees an update on that report. Such updates shall be submitted not later than March 1, 2005, and not later than March 1, 2006.

SEC. 1212. REPORT ON DEPARTMENT OF DEFENSE COSTS RELATING TO NATIONAL SECURITY CONTROLS ON SATELLITE EXPORTS.

(a) STUDY.—The Inspector General of the Department of Defense shall conduct a study of the costs incurred by the Department of Defense for each fiscal year from fiscal year 1999 through fiscal year 2003 relating to national security controls on satellite exports. As part of such study, the Inspector General shall identify for each such fiscal year the amounts expended by the Department of Defense (1) for the monitoring of launches of satellites and related items in a foreign country pursuant to section 1514 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 22 U.S.C. 2778 note), and (2) in connection with applications for licenses for the export of satellites and related items (as that term is defined in section 1516 of that Act).

(b) REPORT.—Not later than April 1, 2004, the Inspector General shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the study under subsection (a). The report shall include the following:

(1) An identification and assessment of the costs referred to in subsection (a), shown in the aggregate and separately, by fiscal year and by clauses (1) and (2) of that subsection.

(2) A review of the costs referred to in clause (1) of subsection (a) for which the Department of Defense has been reimbursed by the person or entity receiving the satellite launch

[9] 50 U.S.C. app. 2404 note.

monitoring services involved, including the extent to which indirect costs were included in such reimbursement.

Subtitle C—Administrative Requirements and Authorities

SEC. 1221. AUTHORITY TO USE FUNDS FOR PAYMENT OF COSTS OF ATTENDANCE OF FOREIGN VISITORS UNDER REGIONAL DEFENSE COUNTERTERRORISM FELLOWSHIP PROGRAM.

(a) AUTHORITY TO USE FUNDS.—(1) Subchapter I of chapter 134 of title 10, United States Code, is amended by adding at the end the following new section: * * *[10]

(2) The table of sections at the beginning of such subchapter is amended by adding at the end the following new item: * * *

(b)[11] NOTIFICATION OF CONGRESS.—Not later than December 1, 2003, the Secretary of Defense shall—

(1) prescribe the final regulations for carrying out section 2249c of title 10, United States Code, as added by subsection (a); and

(2) notify the congressional defense committees of the prescription of such regulations.

SEC. 1222. RECOGNITION OF SUPERIOR NONCOMBAT ACHIEVEMENTS OR PERFORMANCE BY MEMBERS OF FRIENDLY FOREIGN FORCES AND OTHER FOREIGN NATIONALS.

(a) AUTHORITY.—Chapter 53 of title 10, United States Code, is amended by inserting after section 1051a the following new section: * * *[12]

(b) CLERICAL AMENDMENT.—* * *

SEC. 1223. EXPANSION OF AUTHORITY TO WAIVE CHARGES FOR COSTS OF ATTENDANCE AT GEORGE C. MARSHALL EUROPEAN CENTER FOR SECURITY STUDIES.

Section 1306(b)(1) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2892) is amended * * *[13]

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Subtitle D—Other Reports and Sense of Congress Statements

SEC. 1231.[14] ANNUAL REPORT ON THE NATO PRAGUE CAPABILITIES COMMITMENT AND THE NATO RESPONSE FORCE.

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

(1) At the meeting of the North Atlantic Council held in Prague in November 2002, the heads of states and governments of the North Atlantic Treaty Organization (NATO) launched a Prague Capabilities Commitment and decided to create a NATO Response Force.

(2) The Prague Capabilities Commitment is part of the continuing NATO effort to improve and develop new military capabilities for modern warfare in a high-threat environment. As part of this commitment, individual NATO allies have made

[10] For text, see page 638.
[11] 10 U.S.C. 2249c note.
[12] For text, see page 627.
[13] For amended text, see page 1014.
[14] 22 U.S.C. 1928 note.

firm and specific political commitments to improve their capabilities in the areas of—

(A) chemical, biological, radiological, and nuclear defense;

(B) intelligence, surveillance, and target acquisition;

(C) air-to-ground surveillance;

(D) command, control, and communications;

(E) combat effectiveness, including precision guided munitions and suppression of enemy air defenses;

(F) strategic air and sea lift;

(G) air-to-air refueling; and

(H) deployable combat support and combat service support units.

(3) The NATO Response Force is envisioned to be a technologically advanced, flexible, deployable, interoperable, and sustainable force that includes land, sea, and air elements ready to move quickly to wherever needed, as determined by the North Atlantic Council. The NATO Response Force is also intended to be a catalyst for focusing and promoting improvements in NATO's military capabilities. It is expected to have initial operational capability by October 2004, and full operational capability by October 2006.

(b) ANNUAL REPORT.—(1) Not later than January 31 of each year through 2008, the Secretary of Defense shall submit to the congressional committees specified in paragraph (5) a report, to be prepared in consultation with the Secretary of State, on implementation of the Prague Capabilities Commitment and development of the NATO Response Force by the member nations of the North Atlantic Treaty Organization (NATO).

(2) The annual report under this subsection shall include the following matters:

(A) A description of the actions taken by NATO as a whole and by each member nation of NATO other than the United States to further the Prague Capabilities Commitment, including any actions taken to improve capability shortfalls in the areas identified for improvement.

(B) A description of the actions taken by NATO as a whole and by each member nation of NATO, including the United States, to create the NATO Response Force.

(C) A discussion of the relationship between NATO's efforts to improve capabilities through the Prague Capabilities Commitment and those of the European Union to enhance European capabilities through the European Capabilities Action Plan, including the extent to which they are mutually reinforcing.

(D) A discussion of NATO decisionmaking on the implementation of the Prague Capabilities Commitment and the development of the NATO Response Force, including—

(i) an assessment of whether the Prague Capabilities Commitment and the NATO Response Force are the sole jurisdiction of the Defense Planning Committee, the North Atlantic Council, or the Military Committee;

(ii) a description of the circumstances which led to the defense, military, security, and nuclear decisions of NATO

on matters such as the Prague Capabilities Commitment and the NATO Response Force being made in bodies other than the Defense Planning Committee;

(iii) a description of the extent to which any member that does not participate in the integrated military structure of NATO contributes to each of the component committees of NATO, including any and all committees relevant to the Prague Capabilities Commitment and the NATO Response Force;

(iv) a description of the extent to which any member that does not participate in the integrated military structure of NATO participates in deliberations and decisions of NATO on resource policy, contribution ceilings, infrastructure, force structure, modernization, threat assessments, training, exercises, deployments, and other issues related to the Prague Capabilities Commitment or the NATO Response Force;

(v) a description and assessment of the impediments, if any, that would preclude or limit NATO from conducting deliberations and making decisions on matters such as the Prague Capabilities Commitment or the NATO Response Force solely in the Defense Planning Committee; and

(vi) the recommendations of the Secretary of Defense on streamlining defense, military, and security decision-making within NATO relating to the Prague Capabilities Commitment, the NATO Response Force, and other matters, including an assessment of the feasibility and advisability of the greater utilization of the Defense Planning Committee for such purposes.

(3) In the case of a report under this subsection after the first such report, the information submitted in such report under any of clauses (i) through (vi) of subparagraph (D) of paragraph (2) may consist solely of an update of any information previously submitted under that clause in a preceding report under this subsection.

(4) Each report under this subsection shall be submitted in unclassified form, but may also be submitted in classified form if necessary.

(5) The committees specified in this paragraph are—

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

(B) the Committee on Armed Services and the Committee on International Relations of the House of Representatives.

SEC. 1232. REPORT ON ACTIONS THAT COULD BE TAKEN REGARDING COUNTRIES THAT INITIATE CERTAIN LEGAL ACTIONS AGAINST UNITED STATES OFFICIALS OR MEMBERS OF THE ARMED FORCES.

(a) FINDING.—Congress finds that actions for or on behalf of a foreign government that constitute attempts to commence legal proceedings against, or attempts to compel the appearance of or production of documents from, any current or former official or employee of the United States or member of the Armed Forces of the United States relating to the performance of official duties, other than pursuant to a status of forces agreement or other international agreement to which the United States is a party, may

have a negative effect on the ability of the United States to take necessary and timely military action.

(b) REPORT.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on appropriate steps that could be taken by the Department of Defense (such as restrictions on military travel, limitations on military support and exchange programs, and consideration of relocating, or limiting funding for, United States or allied military commands, headquarters, or organizations) to respond to an action by a foreign government described in subsection (a).

SEC. 1233. SENSE OF CONGRESS ON REDEPLOYMENT OF UNITED STATES FORCES IN EUROPE.

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

(1) In March 1999, in its initial round of expansion, the North Atlantic Treaty Organization (NATO) admitted Poland, the Czech Republic, and Hungary to the Alliance.

(2) At the Prague Summit on November 21–22, 2002, the NATO heads of state and government invited the countries of Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia to join the Alliance.

(3) The countries admitted in the initial round of expansion referred to in paragraph (1) and the seven new invitee nations referred to in paragraph (2) will in combination significantly alter the nature of the Alliance.

(4) During the first 50 years of the Alliance, NATO materially contributed to the security and stability of Western Europe, bringing peace and prosperity to the member nations.

(5) The expansion of NATO is an opportunity to assist the invitee nations in gaining the capabilities to ensure peace, prosperity, and democracy for themselves during the next 50 years of the Alliance.

(6) The military structure and mission of NATO has changed, no longer being focused on the threat of a Soviet invasion, but evolving to handle new threats and new missions in the area of crisis management, peacekeeping, and peace-support in and beyond the Euro-Atlantic area of operations.

(b) SENSE OF CONGRESS.—In light of the findings in subsection (a), it is the sense of Congress that—

(1) the expansion of the North Atlantic Treaty Organization Alliance and the evolution of the military mission of that Alliance requires a fundamental reevaluation of the current posture of United States forces stationed in Europe; and

(2) the Secretary of Defense, in consultation with the Secretary of State, should—

(A) initiate a reevaluation referred to in paragraph (1); and

(B) in carrying out such a reevaluation, consider a military posture that takes maximum advantage of basing and training opportunities in the newly admitted and invitee states referred to in paragraphs (1) and (2), respectively, of subsection (a).

SEC. 1234. SENSE OF CONGRESS CONCERNING NAVY PORT CALLS IN ISRAEL.

It is the sense of Congress that—

(1) the United States has invested significant amounts of funds in expanding the capacity and security of the port of Haifa, Israel, and the United States Navy should be able to implement the necessary force protection measures that would enable it to take advantage of the repair, replenishment, and communications links available at that port;

(2) the Secretary of Defense and the Secretary of the Navy should conclude discussions with the Government of Israel and the Israel Defense Forces to establish appropriate and effective arrangements to ensure the safety of United States Navy vessels and personnel during port visits to Haifa, Israel; and

(3) upon such arrangements being made, the United States Navy should consider resumption of regular port visits to Haifa, Israel.

TITLE XIII—COOPERATIVE THREAT REDUCTION WITH STATES OF THE FORMER SOVIET UNION [15]

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DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

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Subtitle C—Proliferation Matters

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SEC. 3123.[16] STUDY AND REPORT RELATING TO WEAPONS-GRADE URANIUM AND PLUTONIUM OF THE INDEPENDENT STATES OF THE FORMER SOVIET UNION.

(a) STUDY REQUIRED.—The Secretary of Energy shall carry out a study on the feasibility, costs, and benefits of—

(1) purchasing, from the independent states of the former Soviet Union, weapons-grade uranium and plutonium excess to the defense needs of those states; and

(2) safeguarding the uranium and plutonium so purchased until rendered unusable for nuclear weapons.

(b) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the results of the study required by subsection (a).

SEC. 3124. AUTHORITY TO USE INTERNATIONAL NUCLEAR MATERIALS PROTECTION AND COOPERATION PROGRAM FUNDS OUTSIDE THE FORMER SOVIET UNION.

(a) AUTHORITY.—Subject to the provisions of this section, the President may obligate and expend international nuclear materials protection and cooperation program funds for a fiscal year, and any

[15] For text, see *Legislation on Foreign Relations Through 2004*, vol. II.
[16] 22 U.S.C. 5952 note.

such funds for a fiscal year before such fiscal year that remain available for obligation, for a defense nuclear nonproliferation project or activity outside the states of the former Soviet Union that has not previously been authorized by Congress[17] if the President determines each of the following:

(1) That such project or activity will—

(A)(i) assist the United States in the resolution of a critical emerging proliferation threat; or

(ii) permit the United States to take advantage of opportunities to achieve long-standing nonproliferation goals; and

(B) be completed in a short period of time.

(2) That the Department of Energy is the entity of the Federal Government that is most capable of carrying out such project or activity.

(b) SCOPE OF AUTHORITY.—The authority in subsection (a) to obligate and expend funds for a project or activity includes authority to provide equipment, goods, and services for such project or activity utilizing such funds, but does not include authority to provide cash directly to such project or activity.

(c)[18] LIMITATION ON AVAILABILITY OF FUNDS.—(1) The President may not obligate funds for a project or activity under the authority in subsection (a) until the President makes each determination specified in that subsection with respect to such project or activity.

(2) Not later than 10 days after obligating funds under the authority in subsection (a) for a project or activity, the President shall notify Congress in writing of the determinations made under paragraph (1) with respect to such project or activity, together with—

(A) a justification for such determinations; and

(B) a description of the scope and duration of such project or activity.

(d)[18] ADDITIONAL LIMITATIONS AND REQUIREMENTS.—Except as otherwise provided in subsections (a) and (b), the exercise of the authority in subsection (a) shall be subject to any requirement or limitation under another provision of law as follows:

(1) Any requirement for prior notice or other reports to Congress on the use of international nuclear materials protection and cooperation program funds or on international nuclear materials protection and cooperation program projects or activities.

(2) Any limitation on the obligation or expenditure of international nuclear materials protection and cooperation program funds.

(3) Any limitation on international nuclear materials protection and cooperation program projects or activities.

(e)[18] FUNDS.—As used in this section, the term "international nuclear materials protection and cooperation program funds"

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[17] Sec. 3131(a) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2165) inserted "that has not previously been authorized by Congress" after "states of the former Soviet Union".

[18] Sec. 3131(b) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2165) struck out subsec. (c), and redesignated subsecs. (d), (e), and (f) as subsecs. (c), (d), and (e), respectively. Subsec. (c) had read as follows:

"(c) LIMITATION ON TOTAL AMOUNT OF OBLIGATION.—The amount that may be obligated in a fiscal year under the authority in subsection (a) may not exceed $50,000,000.".

means the funds appropriated pursuant to an authorization of appropriations for the International Nuclear Materials Protection and Cooperation Program.[19]

SEC. 3125.[20] REQUIREMENT FOR ON-SITE MANAGERS.

(a) ON-SITE MANAGER REQUIREMENT.—Before obligating any defense nuclear nonproliferation funds for a project described in subsection (b), the Secretary of Energy shall appoint one on-site manager for that project. The manager shall be appointed from among employees of the Federal Government.

(b) PROJECTS COVERED.—Subsection (a) applies to a project—

(1) to be located in a state of the former Soviet Union;

(2) which involves dismantlement, destruction, or storage facilities, or construction of a facility; and

(3) with respect to which the total contribution by the Department of Energy is expected to exceed $50,000,000.

(c) DUTIES OF ON-SITE MANAGER.—The on-site manager appointed under subsection (a) shall—

(1) develop, in cooperation with representatives from governments of countries participating in the project, a list of those steps or activities critical to achieving the project's disarmament or nonproliferation goals;

(2) establish a schedule for completing those steps or activities;

(3) meet with all participants to seek assurances that those steps or activities are being completed on schedule; and

(4) suspend United States participation in a project when a non-United States participant fails to complete a scheduled step or activity on time, unless directed by the Secretary of Energy to resume United States participation.

(d) AUTHORITY TO MANAGE MORE THAN ONE PROJECT.—(1) Subject to paragraph (2), an employee of the Federal Government may serve as on-site manager for more than one project, including projects at different locations.

(2) If such an employee serves as on-site manager for more than one project in a fiscal year, the total cost of the projects for that fiscal year may not exceed $150,000,000.

(e) STEPS OR ACTIVITIES.—Steps or activities referred to in subsection (c)(1) are those activities that, if not completed, will prevent a project from achieving its disarmament or nonproliferation goals, including, at a minimum, the following:

(1) Identification and acquisition of permits (as defined in subsection (g)).

(2) Verification that the items, substances, or capabilities to be dismantled, secured, or otherwise modified are available for dismantlement, securing, or modification.

(3) Timely provision of financial, personnel, management, transportation, and other resources.

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[19] Sec. 3131(c) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2166) struck out "the funds appropriated pursuant to the authorization of appropriations in section 3101(a)(2) for such program" and inserted in lieu thereof "the funds appropriated pursuant to an authorization of appropriations for the International Nuclear Materials Protection and Cooperation Program".

[20] 22 U.S.C. 5961a.

(f) NOTIFICATION TO CONGRESS.—In any case in which the Secretary of Energy directs an on-site manager to resume United States participation in a project under subsection (c)(4), the Secretary shall concurrently notify Congress of such direction.

(g) PERMIT DEFINED.—In this section, the term "permit" means any local or national permit for development, general construction, environmental, land use, or other purposes that is required in the state of the former Soviet Union in which the project is being or is proposed to be carried out.

(h) EFFECTIVE DATE.—This section shall take effect six months after the date of the enactment of this Act.

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TITLE XXXVI—NUCLEAR SECURITY INITIATIVE

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SEC. 3601.[21] SHORT TITLE.

This title may be cited as the "Nuclear Security Initiative Act of 2003".

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Subtitle B—Relations Between the United States and Russia

SEC. 3621.[22] COMPREHENSIVE INVENTORY OF RUSSIAN TACTICAL NUCLEAR WEAPONS.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the United States should, to the extent the President considers prudent, seek to work with the Russian Federation to develop a comprehensive inventory of Russian tactical nuclear weapons.

(b) REPORT.—Not later than 12 months after the date of the enactment of this Act, the President shall submit to Congress a report, in both classified and unclassified form as necessary, describing the progress that has been made toward creating such an inventory.

SEC. 3622.[23] ESTABLISHMENT OF INTERPARLIAMENTARY THREAT REDUCTION WORKING GROUP.

(a) ESTABLISHMENT OF WORKING GROUP.—There is hereby established a working group to be known as the "Threat Reduction Working Group" as an interparliamentary group of the Congress of the United States and the legislature of the Russian Federation.

(b) PURPOSE OF WORKING GROUP.—The purpose of the working group established by subsection (a) shall be to explore means to enhance cooperation between the United States and the Russian Federation with respect to nuclear nonproliferation and security and such other issues related to reducing the dangers of weapons of mass destruction as the members of the working group consider appropriate.

(c) MEMBERSHIP.—(1) The majority leader of the Senate, after consultation with the minority leader of the Senate, shall appoint

[21] 22 U.S.C. 5951 note.
[22] 22 U.S.C. 5959 note.
[23] 22 U.S.C. 5951 note.

not more than 10 Senators to the working group established by subsection (a).

(2) The Speaker of the House of Representatives, after consultation with the minority leader of the House of Representatives, shall appoint not more than 30 Members of the House to the working group.

SEC. 3623.[24] SENSE OF CONGRESS ON COOPERATION BY UNITED STATES AND NATO WITH RUSSIA ON BALLISTIC MISSILE DEFENSES.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the President should, in conjunction with the North Atlantic Treaty Organization, encourage appropriate cooperative relationships between the Russian Federation and the United States and North Atlantic Treaty Organization with respect to the development and deployment of ballistic missile defenses.

(b) REPORT TO CONGRESS.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall transmit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report (in unclassified or classified form as necessary) on the feasibility of increasing cooperation between the Russian Federation and the United States and the North Atlantic Treaty Organization on the subject of ballistic missile defense. The report shall include—

(1) the recommendations of the Secretary;

(2) a description of the threat such cooperation is intended to address; and

(3) an assessment of possible benefits to ballistic missile defense programs of the United States.

SEC. 3624. SENSE OF CONGRESS ON ENHANCED COLLABORATION TO ACHIEVE MORE RELIABLE RUSSIAN EARLY WARNING SYSTEMS.

It is the sense of Congress that the President, to the extent consistent with the national security interests of the United States, should—

(1) encourage joint efforts by the United States and the Russian Federation to reduce the probability of accidental nuclear attack as a result of misinformation or miscalculation by developing the capabilities and increasing the reliability of Russian ballistic missile early-warning systems;

(2) encourage the development of joint programs by the United States and the Russian Federation to ensure that the Russian Federation has reliable information regarding launches of ballistic missiles anywhere in the world; and

(3) pending the execution of a new agreement between the United States and the Russian Federation providing for the conduct of the Russian-American Observation Satellite (RAMOS) program, ensure that funds appropriated for that program for fiscal year 2004 are obligated and expended in a manner that provides for the satisfactory continuation of that program.

[24] 22 U.S.C. 1928 note.

Subtitle C—Other Matters

SEC. 3631.[25] PROMOTION OF DISCUSSIONS ON NUCLEAR AND RADIOLOGICAL SECURITY AND SAFETY BETWEEN THE INTERNATIONAL ATOMIC ENERGY AGENCY AND THE ORGANIZATION FOR ECONOMIC COOPERATION AND DEVELOPMENT.

(a) SENSE OF CONGRESS REGARDING INITIATION OF DIALOGUE BETWEEN THE IAEA AND THE OECD.—It is the sense of Congress that—

(1) the United States should seek to initiate discussions between the International Atomic Energy Agency and the Organization for Economic Cooperation and Development for the purpose of exploring issues of nuclear and radiological security and safety, including the creation of new sources of revenue (including debt reduction) for states to provide nuclear security; and

(2) the discussions referred to in paragraph (1) should also provide a forum to explore possible sources of funds in support of the G–8 Global Partnership Against the Spread of Weapons and Materials of Mass Destruction.

(b) CONTINGENT REPORT.—(1) Except as provided in paragraph (2), the President shall, not later than 12 months after the date of the enactment of this Act, submit to Congress a report on—

(A) the efforts made by the United States to initiate the discussions described in subsection (a);

(B) the results of those efforts; and

(C) any plans for further discussions and the purposes of such discussions.

(2) Paragraph (1) shall not apply if no efforts referred to in paragraph (1)(A) have been made.

[25] 22 U.S.C. 6321 note.

e. Department of Defense Appropriations Act, 2004

Partial text of Public Law 108–87 [H.R. 2658], 117 Stat. 1054, approved September 30, 2003; amended by Public Law 108–287 [Department of Defense Appropriations Act, 2005; H.R. 4613], 118 Stat. 951, approved August 5, 2004

AN ACT Making appropriations for the Department of Defense for the fiscal year ending September 30, 2004, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2004, for military functions administered by the Department of Defense, and for other purposes, namely:

* * * * * * *

TITLE II

OPERATION AND MAINTENANCE

* * * * * * *

OVERSEAS CONTINGENCY OPERATIONS TRANSFER ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For expenses directly relating to Overseas Contingency Operations by United States military forces, $5,000,000, to remain available until expended: *Provided,* That the Secretary of Defense may transfer these funds only to military personnel accounts; operation and maintenance accounts within this title; the Defense Health Program appropriation; procurement accounts; research, development, test and evaluation accounts; and to working capital funds: *Provided further,* That the funds transferred shall be merged with and shall be available for the same purposes and for the same time period, as the appropriation to which transferred: *Provided further,* That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further,* That the transfer authority provided in this paragraph is in addition to any other transfer authority contained elsewhere in this Act.

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OVERSEAS HUMANITARIAN, DISASTER, AND CIVIC AID

For expenses relating to the Overseas Humanitarian, Disaster, and Civic Aid programs of the Department of Defense (consisting of the programs provided under sections 401, 402, 404, 2547, and

2561 of title 10, United States Code), $59,000,000, to remain available until September 30, 2005.

FORMER SOVIET UNION THREAT REDUCTION

For assistance to the republics of the former Soviet Union, including assistance provided by contract or by grants, for facilitating the elimination and the safe and secure transportation and storage of nuclear, chemical and other weapons; for establishing programs to prevent the proliferation of weapons, weapons components, and weapon-related technology and expertise; for programs relating to the training and support of defense and military personnel for demilitarization and protection of weapons, weapons components and weapons technology and expertise, and for defense and military contacts, $450,800,000, to remain available until September 30, 2006: *Provided,* That of the amounts provided under this heading, $10,000,000 shall be available only to support the dismantling and disposal of nuclear submarines, submarine reactor components, and warheads in the Russian Far East.

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TITLE VI

OTHER DEPARTMENT OF DEFENSE PROGRAMS

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DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For drug interdiction and counter-drug activities of the Department of Defense, for transfer to appropriations available to the Department of Defense for military personnel of the reserve components serving under the provisions of title 10 and title 32, United States Code; for Operation and maintenance; for Procurement; and for Research, development, test and evaluation, $835,616,000: *Provided,* That the funds appropriated under this heading shall be available for obligation for the same time period and for the same purpose as the appropriation to which transferred: *Provided further,* That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further,* That the transfer authority provided under this heading is in addition to any other transfer authority contained elsewhere in this Act.

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TITLE VII

RELATED AGENCIES

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NATIONAL SECURITY EDUCATION TRUST FUND

For the purposes of title VIII of Public Law 102–183, $8,000,000, to be derived from the National Security Education Trust Fund, to remain available until expended.

TITLE VIII

GENERAL PROVISIONS

* * * * * * *

SEC. 8002.[1] During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense: *Provided,* That salary increases granted to direct and indirect hire foreign national employees of the Department of Defense funded by this Act shall not be at a rate in excess of the percentage increase authorized by law for civilian employees of the Department of Defense whose pay is computed under the provisions of section 5332 of title 5, United States Code, or at a rate in excess of the percentage increase provided by the appropriate host nation to its own employees, whichever is higher: *Provided further,* That this section shall not apply to Department of Defense foreign service national employees serving at United States diplomatic missions whose pay is set by the Department of State under the Foreign Service Act of 1980: *Provided further,* That the limitations of this provision shall not apply to foreign national employees of the Department of Defense in the Republic of Turkey.

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SEC. 8018.[2] Notwithstanding any other provision of law, during the current fiscal year, the Secretary of Defense may, by executive agreement, establish with host nation governments in NATO member states a separate account into which such residual value amounts negotiated in the return of United States military installations in NATO member states may be deposited, in the currency of the host nation, in lieu of direct monetary transfers to the United States Treasury: *Provided,* That such credits may be utilized only for the construction of facilities to support United States military forces in that host nation, or such real property maintenance and base operating costs that are currently executed through monetary transfers to such host nations: *Provided further,* That the Department of Defense's budget submission for fiscal year 2005 shall identify such sums anticipated in residual value settlements, and identify such construction, real property maintenance or base operating costs that shall be funded by the host nation through such credits: *Provided further,* That all military construction projects to be executed from such accounts must be previously approved in a prior Act of Congress: *Provided further,* That each such executive agreement with a NATO member host nation shall be reported to the congressional defense committees, the Committee on International Relations of the House of Representatives and the

[1] 10 U.S.C. 1584 note.
[2] 10 U.S.C. 2687 note.

Committee on Foreign Relations of the Senate 30 days prior to the conclusion and endorsement of any such agreement established under this provision.

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SEC. 8027. During the current fiscal year, the Department of Defense is authorized to incur obligations of not to exceed $350,000,000 for purposes specified in section 2350j(c) of title 10, United States Code, in anticipation of receipt of contributions, only from the Government of Kuwait, under that section: *Provided,* That upon receipt, such contributions from the Government of Kuwait shall be credited to the appropriations or fund which incurred such obligations.

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SEC. 8033.[3] (a)(1) If the Secretary of Defense, after consultation with the United States Trade Representative, determines that a foreign country which is party to an agreement described in paragraph (2) has violated the terms of the agreement by discriminating against certain types of products produced in the United States that are covered by the agreement, the Secretary of Defense shall rescind the Secretary's blanket waiver of the Buy American Act with respect to such types of products produced in that foreign country.

(2) An agreement referred to in paragraph (1) is any reciprocal defense procurement memorandum of understanding, between the United States and a foreign country pursuant to which the Secretary of Defense has prospectively waived the Buy American Act for certain products in that country.

(b) The Secretary of Defense shall submit to the Congress a report on the amount of Department of Defense purchases from foreign entities in fiscal year 2004. Such report shall separately indicate the dollar value of items for which the Buy American Act was waived pursuant to any agreement described in subsection (a)(2), the Trade Agreement Act of 1979 (19 U.S.C. 2501 et seq.), or any international agreement to which the United States is a party.

(c) For purposes of this section, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

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SEC. 8051. None of the funds appropriated or otherwise made available in this Act may be obligated or expended for assistance to the Democratic People's Republic of North Korea unless specifically appropriated for that purpose.

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SEC. 8065. (a) LIMITATION ON TRANSFER OF DEFENSE ARTICLES AND SERVICES.—Notwithstanding any other provision of law, none of the funds available to the Department of Defense for the current

[3] 41 U.S.C. 10b–2.

fiscal year may be obligated or expended to transfer to another nation or an international organization any defense articles or services (other than intelligence services) for use in the activities described in subsection (b) unless the congressional defense committees, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate are notified 15 days in advance of such transfer.

(b) COVERED ACTIVITIES.—This section applies to—

(1) any international peacekeeping or peace-enforcement operation under the authority of chapter VI or chapter VII of the United Nations Charter under the authority of a United Nations Security Council resolution; and

(2) any other international peacekeeping, peace-enforcement, or humanitarian assistance operation.

(c) REQUIRED NOTICE.—A notice under subsection (a) shall include the following:

(1) A description of the equipment, supplies, or services to be transferred.

(2) A statement of the value of the equipment, supplies, or services to be transferred.

(3) In the case of a proposed transfer of equipment or supplies—

(A) a statement of whether the inventory requirements of all elements of the Armed Forces (including the reserve components) for the type of equipment or supplies to be transferred have been met; and

(B) a statement of whether the items proposed to be transferred will have to be replaced and, if so, how the President proposes to provide funds for such replacement.

SEC. 8066. To the extent authorized by subchapter VI of chapter 148 of title 10, United States Code, the Secretary of Defense may issue loan guarantees in support of United States defense exports not otherwise provided for: *Provided,* That the total contingent liability of the United States for guarantees issued under the authority of this section may not exceed $15,000,000,000: *Provided further,* That the exposure fees charged and collected by the Secretary for each guarantee shall be paid by the country involved and shall not be financed as part of a loan guaranteed by the United States: *Provided further,* That the Secretary shall provide quarterly reports to the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate and the Committees on Appropriations, Armed Services, and International Relations in the House of Representatives on the implementation of this program: *Provided further,* That amounts charged for administrative fees and deposited to the special account provided for under section 2540c(d) of title 10, shall be available for paying the costs of administrative expenses of the Department of Defense that are attributable to the loan guarantee program under subchapter VI of chapter 148 of title 10, United States Code.

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SEC. 8075. None of the funds made available in this Act may be used to approve or license the sale of the F–22 advanced tactical fighter to any foreign government.

SEC. 8076. (a) The Secretary of Defense may, on a case-by-case basis, waive with respect to a foreign country each limitation on the procurement of defense items from foreign sources provided in law if the Secretary determines that the application of the limitation with respect to that country would invalidate cooperative programs entered into between the Department of Defense and the foreign country, or would invalidate reciprocal trade agreements for the procurement of defense items entered into under section 2531 of title 10, United States Code, and the country does not discriminate against the same or similar defense items produced in the United States for that country.

(b) Subsection (a) applies with respect to—

(1) contracts and subcontracts entered into on or after the date of the enactment of this Act; and

(2) options for the procurement of items that are exercised after such date under contracts that are entered into before such date if the option prices are adjusted for any reason other than the application of a waiver granted under subsection (a).

(c) Subsection (a) does not apply to a limitation regarding construction of public vessels, ball and roller bearings, food, and clothing or textile materials as defined by section 11 (chapters 50–65) of the Harmonized Tariff Schedule and products classified under headings 4010, 4202, 4203, 6401 through 6406, 6505, 7019, 7218 through 7229, 7304.41 through 7304.49, 7306.40, 7502 through 7508, 8105, 8108, 8109, 8211, 8215, and 9404.

SEC. 8077. (a) PROHIBITION.—None of the funds made available by this Act may be used to support any training program involving a unit of the security forces of a foreign country if the Secretary of Defense has received credible information from the Department of State that the unit has committed a gross violation of human rights, unless all necessary corrective steps have been taken.

(b) MONITORING.—The Secretary of Defense, in consultation with the Secretary of State, shall ensure that prior to a decision to conduct any training program referred to in subsection (a), full consideration is given to all credible information available to the Department of State relating to human rights violations by foreign security forces.

(c) WAIVER.—The Secretary of Defense, after consultation with the Secretary of State, may waive the prohibition in subsection (a) if he determines that such waiver is required by extraordinary circumstances.

(d) REPORT.—Not more than 15 days after the exercise of any waiver under subsection (c), the Secretary of Defense shall submit a report to the congressional defense committees describing the extraordinary circumstances, the purpose and duration of the training program, the United States forces and the foreign security forces involved in the training program, and the information relating to human rights violations that necessitates the waiver.

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SEC. 8113. None of the funds appropriated in this Act under the heading "Overseas Contingency Operations Transfer Account" may be transferred or obligated for Department of Defense expenses not directly related to the conduct of overseas contingencies: *Provided,*

That the Secretary of Defense shall submit a report no later than 30 days after the end of each fiscal quarter to the Committees on Appropriations of the Senate and House of Representatives that details any transfer of funds from the "Overseas Contingency Operations Transfer Account": *Provided further,* That the report shall explain any transfer for the maintenance of real property, pay of civilian personnel, base operations support, and weapon, vehicle or equipment maintenance.

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SEC. 8120. Of the amounts provided in title II of this Act under the heading, "Operation and Maintenance, Defense-Wide", $20,000,000 is available for the Regional Defense Counter-terrorism Fellowship Program, to fund the education and training of foreign military officers, ministry of defense civilians, and other foreign security officials, to include United States military officers and civilian officials whose participation directly contributes to the education and training of these foreign students.

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(RESCISSION)

SEC. 8128. Of the funds made available in chapter 3 of title I of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11), under the heading "Iraq Freedom Fund", $3,490,000,000 are hereby rescinded.

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SEC. 8131. (a) Notwithstanding any other provision of law, none of the funds appropriated or otherwise made available in this or any other Act may be obligated for the Terrorism Information Awareness Program: *Provided,* That this limitation shall not apply to the program hereby authorized for Processing, analysis, and collaboration tools for counterterrorism foreign intelligence, as described in the Classified Annex accompanying the Department of Defense Appropriations Act, 2004, for which funds are expressly provided in the National Foreign Intelligence Program for counterterrorism foreign intelligence purposes.

(b) None of the funds provided for Processing, analysis, and collaboration tools for counterterrorism foreign intelligence shall be available for deployment or implementation except for:

(1) lawful military operations of the United States conducted outside the United States; or

(2) lawful foreign intelligence activities conducted wholly overseas, or wholly against non-United States citizens.

(c) In this section, the term "Terrorism Information Awareness Program" means the program known either as Terrorism Information Awareness or Total Information Awareness, or any successor program, funded by the Defense Advanced Research Projects Agency, or any other Department or element of the Federal Government, including the individual components of such Program developed by the Defense Advanced Research Projects Agency.

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SEC. 8137. None of the funds provided in this Act may be used to pay any fee charged by the Department of State for the purpose of constructing new United States diplomatic facilities.

SEC. 8138.[4] (a) The Secretary of Defense—

(1) shall review—

(A) contractual offset arrangements to which the policy established under section 2532 of title 10, United States Code, applies that are in effect on the date of the enactment of this Act;

(B) memoranda of understanding and related agreements to which the limitation in section 2531(c) of such title applies that have been entered into with a country with respect to which such contractual offset arrangements have been entered into and are in effect on such date; and

(C) waivers granted with respect to a foreign country under section 2534(d)(3) of title 10, United States Code, that are in effect on such date; and

(2) shall determine the effects of the use of such arrangements, memoranda of understanding, agreements, and waivers on the national technology and industrial base.

(b) The Secretary shall submit a report on the results of the review under subsection (a) to Congress not later than March 1, 2005. The report shall include a discussion of each of the following:

(1) The effects of the contractual offset arrangements on specific subsectors of the industrial base of the United States and what actions have been taken to prevent or ameliorate any serious adverse effects on such subsectors.

(2) The extent, if any, to which the contractual offset arrangements and memoranda of understanding and related agreements have provided for technology transfer that would significantly and adversely affect the national technology and industrial base.

(3) The extent to which the use of such contractual offset arrangements is consistent with—

(A) the limitation in section 2531(c) of title 10, United States Code, that prohibits implementation of a memorandum of understanding and related agreements if the President, taking into consideration the results of the interagency review, determines that such memorandum of understanding or a related agreement has or is likely to have a significant adverse effect on United States industry that outweighs the benefits of entering into or implementing such memorandum or agreement; and

(B) the requirements under section 2534(d) of such title that—

(i) a waiver granted under such section not impede cooperative programs entered into between the Department of Defense and a foreign country and not impede the reciprocal procurement of defense items that is entered into in accordance with section 2531 of such title; and

[4] 10 U.S.C. 2532 note.

(ii) the country with respect to which the waiver is granted not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country.

(c) The Secretary shall submit to the President any recommendations regarding the use or administration of contractual offset arrangements and memoranda of understanding and related agreements referred to in subsection (a) that the Secretary considers an appropriate response to the findings resulting from the Secretary's review.

SEC. 8139. It is the sense of the Senate that—

(1) any request for funds for a fiscal year for an ongoing overseas military operation, including operations in Afghanistan and Iraq, should be included in the annual budget of the President for such fiscal year as submitted to Congress under section 1105(a) of title 31, United States Code; and

(2) any funds provided for such fiscal year for such a military operation should be provided in appropriations Acts for such fiscal year through appropriations to specific accounts set forth in such Acts.

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This Act may be cited as the "Department of Defense Appropriations Act, 2004".

f. Bob Stump National Defense Authorization Act for Fiscal Year 2003

Partial text of Public Law 107–314 [H.R. 4546], 116 Stat. 2458, approved December 2, 2002; amended by Public Law 108–375 [Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005; H.R. 4200], 118 Stat. 1811, approved October 28, 2004

AN ACT To authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

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

SECTION 1. SHORT TITLE; FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the "Bob Stump National Defense Authorization Act for Fiscal Year 2003".

(b) FINDINGS.—* * *

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into three divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

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

SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.

For purposes of this Act, the term "congressional defense committees" means—

(1) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

(2) the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

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Subtitle A—Authorization of Appropriations

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SEC. 106. CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE.

There is hereby authorized to be appropriated for fiscal year 2003 the amount of $1,490,199,000 for—

(1) the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521); and

(2) the destruction of chemical warfare materiel of the United States that is not covered by section 1412 of such Act.

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Subtitle E—Other Programs

SEC. 141.[1] DESTRUCTION OF EXISTING STOCKPILE OF LETHAL CHEMICAL AGENTS AND MUNITIONS.

(a) PROGRAM MANAGEMENT.—The Secretary of Defense shall ensure that the program for destruction of the United States stockpile of lethal chemical agents and munitions is managed as a major defense acquisition program (as defined in section 2430 of title 10, United States Code) in accordance with the essential elements of such programs as may be determined by the Secretary.

(b) REQUIREMENT FOR UNDER SECRETARY OF DEFENSE (COMPTROLLER) ANNUAL CERTIFICATION.—Beginning with respect to the budget request for fiscal year 2004, the Under Secretary of Defense (Comptroller) shall submit to the congressional defense committees on an annual basis a certification that the budget request for the chemical agents and munitions destruction program has been submitted in accordance with the requirements of section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521).

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TITLE III—OPERATION AND MAINTENANCE

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Subtitle A—Authorization of Appropriations

SEC. 301. OPERATION AND MAINTENANCE FUNDING.

Funds are hereby authorized to be appropriated for fiscal year 2003 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows: * * *

(19) For Overseas Humanitarian, Disaster, and Civic Aid programs, $58,400,000.

(20) For Drug Interdiction and Counter-drug Activities, Defense-wide, $859,907,000.

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(23) For Cooperative Threat Reduction programs, $416,700,000.

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(25) For overseas contingency operations transfer fund, $17,844,000.

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[1] 50 U.S.C. 1521a.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

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Subtitle A—Active Forces

SEC. 401.[2] END STRENGTHS FOR ACTIVE FORCES.

The Armed Forces are authorized strengths for active duty personnel as of September 30, 2003, as follows:

(1) The Army, 480,000.

(2) The Navy, 375,700.

(3) The Marine Corps, 175,000.

(4) The Air Force, 359,000.

SEC. 402. REVISION IN PERMANENT END STRENGTH MINIMUM LEVELS.

(a) REVISED END STRENGTH FLOORS.—Subsection (b) of section 691 of title 10, United States Code, is amended—* * *[3]

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TITLE X—GENERAL PROVISIONS

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Subtitle A—Financial Matters

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SEC. 1003. UNITED STATES CONTRIBUTION TO NATO COMMON-FUNDED BUDGETS IN FISCAL YEAR 2003.

(a) FISCAL YEAR 2003 LIMITATION.—The total amount contributed by the Secretary of Defense in fiscal year 2003 for the common-funded budgets of NATO may be any amount up to, but not in excess of, the amount specified in subsection (b) (rather than the maximum amount that would otherwise be applicable to those contributions under the fiscal year 1998 baseline limitation).

(b) TOTAL AMOUNT.—The amount of the limitation applicable under subsection (a) is the sum of the following:

(1) The amounts of unexpended balances, as of the end of fiscal year 2002, of funds appropriated for fiscal years before fiscal year 2003 for payments for those budgets.

(2) The amount specified in subsection (c)(1).

(3) The amount specified in subsection (c)(2).

(4) The total amount of the contributions authorized to be made under section 2501.

(c) AUTHORIZED AMOUNTS.—Amounts authorized to be appropriated by titles II and III of this Act are available for contributions for the common-funded budgets of NATO as follows:

(1) Of the amount provided in section 201(1), $750,000 for the Civil Budget.

(2) Of the amount provided in section 301(1), $205,623,000 for the Military Budget.

(d) DEFINITIONS.—For purposes of this section:

(1) COMMON-FUNDED BUDGETS OF NATO.—The term "common-funded budgets of NATO" means the Military Budget, the

[2] 10 U.S.C. 115 note.

[3] See 10 U.S.C. 691, page 625.

Security Investment Program, and the Civil Budget of the North Atlantic Treaty Organization (and any successor or additional account or program of NATO).

(2) FISCAL YEAR 1998 BASELINE LIMITATION.—The term "fiscal year 1998 baseline limitation" means the maximum annual amount of Department of Defense contributions for common-funded budgets of NATO that is set forth as the annual limitation in section 3(2)(C)(ii) of the resolution of the Senate giving the advice and consent of the Senate to the ratification of the Protocols to the North Atlantic Treaty of 1949 on the Accession of Poland, Hungary, and the Czech Republic (as defined in section 4(7) of that resolution), approved by the Senate on April 30, 1998.

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Subtitle D—Reports

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SEC. 1043.[4] ANNUAL REPORT ON THE CONDUCT OF MILITARY OPERATIONS CONDUCTED AS PART OF OPERATION ENDURING FREEDOM.

(a) REPORTS REQUIRED.—(1) The Secretary of Defense shall submit to the congressional committees specified in subsection (d) an annual report on the conduct of military operations conducted as part of Operation Enduring Freedom. The first report, which shall include a definition of the military operations carried out as part of Operation Enduring Freedom, shall be submitted not later than June 15, 2003. Subsequent reports shall be submitted not later than June 15 each year, and the final report shall be submitted not later than 180 days after the date (as determined by the Secretary of Defense) of the cessation of hostilities undertaken as part of Operation Enduring Freedom.

(2) Each report under this section shall be prepared in consultation with the Chairman of the Joint Chiefs of Staff, the commander of the United States Central Command, the Director of Central Intelligence, and such other officials as the Secretary considers appropriate.

(3) Each such report shall be submitted in both a classified form and an unclassified form, as necessary.

(b) SPECIAL MATTERS TO BE INCLUDED.—Each report under this section shall include the following:

(1) A discussion of the command, control, coordination, and support relationship between United States special operations forces and Central Intelligence Agency elements participating in Operation Enduring Freedom and any lessons learned from the joint conduct of operations by those forces and elements.

(2) Recommendations to improve operational readiness and effectiveness of these forces and elements.

(c) OTHER MATTERS TO BE INCLUDED.—Each report under this section shall include a discussion, with a particular emphasis on accomplishments and shortcomings, of the following matters with respect to Operation Enduring Freedom:

[4] 10 U.S.C. 113 note.

(1) The political and military objectives of the United States.

(2) The military strategy of the United States to achieve those political and military objectives.

(3) The concept of operations, including any new operational concepts, for the operation.

(4) The benefits and disadvantages of operating with local opposition forces.

(5) The benefits and disadvantages of operating in a coalition with the military forces of allied and friendly nations.

(6) The cooperation of nations in the region for overflight, basing, command and control, and logistic and other support.

(7) The conduct of relief operations both during and after the period of hostilities.

(8) The conduct of close air support (CAS), particularly with respect to the timeliness, efficiency, and effectiveness of such support.

(9) The use of unmanned aerial vehicles for intelligence, surveillance, reconnaissance, and combat support to operational forces.

(10) The use and performance of United States and coalition military equipment, weapon systems, and munitions.

(11) The effectiveness of reserve component forces, including their use and performance in the theater of operations.

(12) The importance and effectiveness of the International Security Assistance Force.

(13) The importance and effectiveness of United States civil affairs forces.

(14) The anticipated duration of the United States military presence in Afghanistan.

(15) The most critical lessons learned that could lead to long-term doctrinal, organizational, and technological changes.

(d) CONGRESSIONAL COMMITTEES.—The committees referred to in subsection (a)(1) are the following:

(1) The Committee on Armed Services and the Select Committee on Intelligence of the Senate.

(2) The Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives.

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Subtitle F—Other Matters

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SEC. 1065. REWARDS FOR ASSISTANCE IN COMBATING TERRORISM.

(a) AUTHORITY.—Chapter 3 of title 10, United States Code, is amended by inserting after section 127a the following new section: * * *[5]

(b) CLERICAL AMENDMENT.—* * *

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[5] For new 10 U.S.C. 127b, relating to assistance in combating terrorism: rewards, see page 604.

TITLE XII—MATTERS RELATING TO OTHER NATIONS

Sec. 1201. Authority to provide administrative services and support for coalition liaison officers.
Sec. 1202. Authority to pay for certain travel of defense personnel of countries participating in NATO Partnership for Peace program.
Sec. 1203. Limitation on funding for Joint Data Exchange Center in Moscow.
Sec. 1204. Support of United Nations-sponsored efforts to inspect and monitor Iraqi weapons activities.
Sec. 1205. Comprehensive annual report to Congress on coordination and integration of all United States nonproliferation activities.
Sec. 1206. Report requirement regarding Russian proliferation to Iran and other countries of proliferation concern.
Sec. 1207. Monitoring of implementation of 1979 agreement between the United States and China on cooperation in science and technology.
Sec. 1208. Extension of certain counterproliferation activities and programs.
Sec. 1209. Semiannual report by Director of Central Intelligence on contributions by foreign persons to efforts by countries of proliferation concern to obtain weapons of mass destruction and their delivery systems.
Sec. 1210. Report on feasibility and advisability of senior officer exchanges between the Armed Forces of the United States and the military forces of Taiwan.
Sec. 1211. Report on United States force structure in the Pacific.

SEC. 1201. AUTHORITY TO PROVIDE ADMINISTRATIVE SERVICES AND SUPPORT FOR COALITION LIAISON OFFICERS.

(a) AUTHORITY.—(1) Chapter 53 of title 10, United States Code, is amended by inserting after section 1051 the following new section:

"§ 1051a. Coalition liaison officers: administrative services and support; travel, subsistence, and other personal expenses

"(a) AUTHORITY.—The Secretary of Defense may provide administrative services and support for the performance of duties by a liaison officer of another nation involved in a coalition with the United States while the liaison officer is assigned temporarily to the headquarters of a combatant command, component command, or subordinate operational command of the United States in connection with the planning for, or conduct of, a coalition operation.

"(b) TRAVEL AND SUBSISTENCE EXPENSES.—(1) The Secretary may pay the expenses specified in paragraph (2) of a liaison officer of a developing country in connection with the assignment of that officer to the headquarters of a combatant command as described in subsection (a), if the assignment is requested by the commander of the combatant command.

"(2) Expenses of a liaison officer that may be paid under paragraph (1) in connection with an assignment described in that paragraph are the following:

"(A) Travel and subsistence expenses.

"(B) Personal expenses directly necessary to carry out the duties of that officer in connection with that assignment.

"(c) REIMBURSEMENT.—To the extent that the Secretary determines appropriate, the Secretary may provide the services and support authorized by subsection (a) and the expenses authorized by subsection (b) with or without reimbursement from (or on behalf of) the recipients.

"(d) DEFINITIONS.—In this section:

"(1) The term 'administrative services and support' includes base or installation support services, office space, utilities, copying services, fire and police protection, and computer support.

"(2) The term 'coalition' means an ad hoc arrangement between or among the United States and one or more other nations for common action.

"(e) EXPIRATION OF AUTHORITY.—The authority under this section shall expire on September 30, 2005.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1051 the following new item: * * *

(b)[6] GAO REPORT.—Not later than March 1, 2005, the Comptroller General shall submit to the Committees on Armed Services of the Senate and House of Representatives a report providing an assessment of the implementation of section 1051a of title 10, United States Code, as added by subsection (a). The assessment shall include the following:

(1) A description of the benefits to coalition operations of the authority provided by that section.

(2) A statement of the cost to the Department of Defense of the use of the authority provided by that section.

(3) A summary of activities carried out under the authority provided by that section, including (A) the number of liaison officers for whom administrative services and support or expenses were provided under that authority and their countries of origin, and (B) the type of services, support, and expenses provided.

SEC. 1202. AUTHORITY TO PAY FOR CERTAIN TRAVEL OF DEFENSE PERSONNEL OF COUNTRIES PARTICIPATING IN NATO PARTNERSHIP FOR PEACE PROGRAM.

(a) AUTHORITY FOR USE OF FUNDS.—Section 1051(b) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking "paragraph (2)" and inserting "paragraphs (2) and (3)";

(2) by redesignating paragraph (3) as paragraph (4); and

(3) by inserting after paragraph (2) the following new paragraph (3):

"(3) In the case of defense personnel of a developing country that is not a member of the North Atlantic Treaty Organization and that is participating in the Partnership for Peace program of the North Atlantic Treaty Organization (NATO), expenses authorized to be paid under subsection (a) may be paid in connection with travel of personnel to the territory of any of the countries participating in the Partnership for Peace program or the territory of any NATO member country.".

(b)[7] EFFECTIVE DATE.—The amendments made by subsection (a) shall apply only with respect to travel performed on or after the date of the enactment of this Act.

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[6] 10 U.S.C. 1051a note.
[7] 10 U.S.C. 1051 note.

SEC. 1203. LIMITATION ON FUNDING FOR JOINT DATA EXCHANGE CENTER IN MOSCOW.

(a) LIMITATION.—Not more than 50 percent of the funds made available to the Department of Defense for fiscal year 2003 for activities associated with the Joint Data Exchange Center in Moscow, Russia, may be obligated or expended for any such activity until—

(1) the United States and the Russian Federation enter into a cost-sharing agreement as described in subsection (d) of section 1231 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–329);

(2) the United States and the Russian Federation enter into an agreement or agreements exempting the United States and any United States person from Russian taxes, and from liability under Russian laws, with respect to activities associated with the Joint Data Exchange Center;

(3) the Secretary of Defense submits to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a copy of each agreement referred to in paragraphs (1) and (2); and

(4) a period of 30 days has expired after the date of the final submission under paragraph (3).

(b) JOINT DATA EXCHANGE CENTER.—For purposes of this section, the term "Joint Data Exchange Center" means the United States-Russian Federation joint center for the exchange of data to provide early warning of launches of ballistic missiles and for notification of such launches that is provided for in a joint United States-Russian Federation memorandum of agreement signed in Moscow in June 2000.

SEC. 1204. SUPPORT OF UNITED NATIONS-SPONSORED EFFORTS TO INSPECT AND MONITOR IRAQI WEAPONS ACTIVITIES.

(a) LIMITATION ON AMOUNT OF ASSISTANCE IN FISCAL YEAR 2003.—The total amount of the assistance for fiscal year 2003 that is provided by the Secretary of Defense under section 1505 of the Weapons of Mass Destruction Control Act of 1992 (22 U.S.C. 5859a) as activities of the Department of Defense in support of activities under that Act may not exceed $15,000,000.

(b) EXTENSION OF AUTHORITY TO PROVIDE ASSISTANCE.—Subsection (f) of section 1505 of the Weapons of Mass Destruction Control Act of 1992 (22 U.S.C. 5859a) is amended by striking "2002" and inserting "2003".

SEC. 1205.[8] COMPREHENSIVE ANNUAL REPORT TO CONGRESS ON COORDINATION AND INTEGRATION OF ALL UNITED STATES NONPROLIFERATION ACTIVITIES.

Section 1205 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1247) is amended by adding at the end the following new subsection: * * *

[8] 22 U.S.C. 5952 note.

SEC. 1206.[9] REPORT REQUIREMENT REGARDING RUSSIAN PROLIFERATION TO IRAN AND OTHER COUNTRIES OF PROLIFERATION CONCERN.

(a) REPORT REQUIREMENT.—Not later than March 15 of 2003 through 2009, the President shall submit to Congress a report (in unclassified and classified form as necessary) describing in detail Russian proliferation of weapons of mass destruction and ballistic missile goods, technology, expertise, and information, and of dual-use items that may contribute to the development of weapons of mass destruction and ballistic missiles, to Iran and to other countries of proliferation concern during the year preceding the year in which the report is submitted. The report shall include a detailed description of the following, for the year covered by the report:

(1) The number, type, and quality of direct and dual-use weapons of mass destruction and ballistic missile goods, technology, expertise, and information transferred.

(2) The form, location, and manner in which such transfers took place.

(3) The contribution that such transfers could make to the recipient countries' weapons of mass destruction and ballistic missile programs, and an estimate of how soon such countries will test, possess, and deploy weapons of mass destruction and ballistic missiles.

(4) The impact and consequences that such transfers have, and could have over the next 10 years—

(A) on United States national security;

(B) on United States military forces deployed in the region to which such transfers are being made;

(C) on United States allies, friends, and interests in that region; and

(D) on the military capabilities of the country receiving such transfers from Russia.

(5) The policy and strategy that the President intends to employ to halt Russian proliferation, the policy tools that the President intends to use to carry out that policy and strategy, the rationale for employing such tools, and the timeline by which the President expects to see material progress in ending Russian proliferation of direct and dual-use weapons of mass destruction and missile goods, technology, expertise, and information.

(b) DEFINITION.—In this section, the term "country of proliferation concern" means any country identified by the Director of Central Intelligence as having engaged in the acquisition of dual-use and other technology useful for the development or production of weapons of mass destruction (including nuclear weapons, chemical weapons, and biological weapons) or advanced conventional munitions—

(1) in the most recent report under section 721 of the Combatting Proliferation of Weapons of Mass Destruction Act of 1996 (title VII of Public Law 104–293; 50 U.S.C. 2366); or

[9] 22 U.S.C. 5952 note.

(2) in any successor report on the acquisition by foreign countries of dual-use and other technology useful for the development or production of weapons of mass destruction.

SEC. 1207.[10] MONITORING OF IMPLEMENTATION OF 1979 AGREEMENT BETWEEN THE UNITED STATES AND CHINA ON COOPERATION IN SCIENCE AND TECHNOLOGY.

(a) IN GENERAL.—The Secretary of State shall—

(1) monitor the implementation of the Agreement specified in subsection (c);

(2) keep a systematic account of the protocols to the Agreement;

(3) coordinate the activities of all agencies of the United States Government that carry out cooperative activities under the Agreement; and

(4) ensure that all activities conducted under the Agreement comply with applicable laws and regulations concerning the transfer of militarily sensitive technologies and dual-use technologies.

(b) RESPONSIBILITIES OF THE OFFICE OF SCIENCE AND TECHNOLOGY COOPERATION.—Except as otherwise provided by the Secretary of State, the functions of the Secretary under this section shall be carried out through the Director of the Office of Science and Technology Cooperation of the Department of State.

(c) AGREEMENT DEFINED.—For purposes of this section, the term "Agreement" means the agreement between the United States and the People's Republic of China known as the "Agreement between the Government of the United States of America and the Government of the People's Republic of China on Cooperation in Science and Technology", signed in Washington on January 31, 1979, and its protocols.

(d) BIENNIAL REPORT TO CONGRESS.—(1) Not later than April 1 of each even-numbered year, the Secretary of State shall submit to Congress a report on the implementation of the Agreement and on activities under the Agreement. Each such report shall be submitted in both classified and unclassified form, as necessary.

(2) Each report under this subsection shall provide an evaluation of the benefits of the Agreement to the economy, to the military, and to the industrial base of the People's Republic of China and shall include the following:

(A) An accounting of all activities conducted under the Agreement since the previous report (or, in the case of the first report, since the Agreement was entered into) and a projection of activities to be undertaken under the Agreement during the next two years.

(B) An estimate of the costs to the United States to administer the Agreement during the period covered by the report.

(C) An assessment of how the Agreement has influenced the foreign and domestic policies of the People's Republic of China and the policy of the People's Republic of China toward scientific and technological cooperation with the United States.

[10] 22 U.S.C. 6901 note.

(D) An analysis by the Director of Central Intelligence of the involvement of military specialists, weapons specialists, and intelligence specialists of the People's Republic of China in the activities of the Joint Commission established under the Agreement and in other activities conducted under the Agreement.

(E) A determination by the Secretary of Defense, developed with the assistance of the Director of Central Intelligence, of the extent to which the activities conducted under the Agreement have enhanced the military and defense industrial base of the People's Republic of China, and an assessment of the effect that projected activities under the Agreement for the next two years, including the transfer of technology and know-how, could have on the economic and military capabilities of the People's Republic of China.

(F) An assessment by the Inspector General of the Department of Commerce of—

(i) the extent to which programs or activities carried out under the Agreement provide access to technology, information, or know-how that could enhance military capabilities of the People's Republic of China; and

(ii) the extent to which those programs or activities are carried out in compliance with export control laws and regulations of the United States, especially those laws and regulations governing so-called "deemed exports".

(G) Any recommendations of the Secretary of State, Secretary of Defense, or Director of Central Intelligence for improving the monitoring of the activities of the Joint Commission established under the Agreement.

(3) The Secretary of State shall prepare each report under this subsection in consultation with the Secretary of Defense, the Secretary of Energy, the Director of Central Intelligence, the Director of the Federal Bureau of Investigation, and the Director of the National Science Foundation.

(e) INTERAGENCY WORKING GROUP.—The President shall establish an interagency working group to oversee the implementation of the Agreement by departments and agencies of the United States. The working group shall consist of representatives of such departments, agencies, and offices of the executive branch as the President considers appropriate. The working group shall perform the following functions:

(1) Assisting the Secretary of State and other appropriate officials in setting standards under the Agreement for science and technology transfers between the United States and the People's Republic of China.

(2) Monitoring ongoing programs and activities under the Agreement and recommending future programs and activities under the Agreement.

(3) Developing a comprehensive database of all government-to-government programs and United States Government-funded programs under the Agreement.

(4) Coordinating activities under the Agreement between United States Government agencies, including elements of the intelligence community, as appropriate.

SEC. 1208. EXTENSION OF CERTAIN COUNTERPROLIFERATION ACTIVITIES AND PROGRAMS.

(a) EXTENSION OF INTERAGENCY COUNTERPROLIFERATION PROGRAM REVIEW COMMITTEE.—Section 1605(f) of the National Defense Authorization Act for Fiscal Year 1994 (22 U.S.C. 2751 note) is amended * * *

(b) LATER DEADLINE FOR SUBMISSION OF ANNUAL REPORT.—Subsection (a) of section 1503 of the National Defense Authorization Act for Fiscal Year 1995 (22 U.S.C. 2751 note) is amended * * *

(c) ADDITIONAL MATTERS TO BE INCLUDED IN ANNUAL REPORT.—Subsection (b) of such section is amended * * *

(d) TECHNICAL AMENDMENT TO REFLECT CHANGE IN POSITION TITLE.—Section 1605(a)(4) of the National Defense Authorization Act for Fiscal Year 1994 (22 U.S.C. 2751 note) is amended * * *

SEC. 1209. SEMIANNUAL REPORT BY DIRECTOR OF CENTRAL INTELLIGENCE ON CONTRIBUTIONS BY FOREIGN PERSONS TO EFFORTS BY COUNTRIES OF PROLIFERATION CONCERN TO OBTAIN WEAPONS OF MASS DESTRUCTION AND THEIR DELIVERY SYSTEMS.

(a) CONTENT OF SEMIANNUAL REPORT.—The Combatting Proliferation of Weapons of Mass Destruction Act of 1996 (title VII of Public Law 104–293) is amended * * *

(b)[11] EFFECTIVE DATE.—Section 722 of the Combatting Proliferation of Weapons of Mass Destruction Act of 1996, as added by subsection (a), shall take effect with the report with respect to the first six months of 2003 required to be submitted under that section not later than January 1, 2004.

SEC. 1210. REPORT ON FEASIBILITY AND ADVISABILITY OF SENIOR OFFICER EXCHANGES BETWEEN THE ARMED FORCES OF THE UNITED STATES AND THE MILITARY FORCES OF TAIWAN.

(a) PRESIDENTIAL REPORT.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report on—

(1) the feasibility and advisability of conducting combined operational training with, and exchanges of general and flag officers between, the Armed Forces of the United States and the military forces of Taiwan; and

(2) the progress being made in meeting United States commitments to the security of Taiwan.

(b) CLASSIFICATION OF REPORT.—The report required by this section shall be submitted in unclassified form and, as necessary, in classified form.

SEC. 1211. REPORT ON UNITED STATES FORCE STRUCTURE IN THE PACIFIC.

(a) SECRETARY OF DEFENSE REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the plans of the Department of Defense to maintain adequate United States force structure in the Pacific, including any efforts (1) to augment current basing arrangements, and (2) to implement the recommendations from the most recent Quadrennial Defense Review to improve United States military capabilities in the Pacific.

[11] 50 U.S.C. 2369 note.

(b) CLASSIFICATION OF REPORT.—The report required by this section shall be submitted in unclassified form and, as necessary, in classified form.

TITLE XIII—COOPERATIVE THREAT REDUCTION WITH STATES OF THE FORMER SOVIET UNION[12]

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TITLE XV—AUTHORIZATION OF APPROPRIATIONS FOR THE WAR ON TERRORISM

Sec. 1501. Authorization of appropriations for continued operations for the war on terrorism.
Sec. 1502. Mobilization and personnel.
Sec. 1503. Operations.
Sec. 1504. Equipment replacement and enhancement.
Sec. 1505. Classified activities.
Sec. 1506. Procurement of munitions.
Sec. 1507. Discretionary restoration of authorizations of appropriations reduced for management efficiencies.
Sec. 1508. General provisions applicable to transfers.

SEC. 1501. AUTHORIZATION OF APPROPRIATIONS FOR CONTINUED OPERATIONS FOR THE WAR ON TERRORISM.

In addition to any other amounts authorized to be appropriated by this Act, there is hereby authorized to be appropriated for the Department of Defense for fiscal year 2003, subject to subsection (b), $10,000,000,000 only for the conduct of Operation Noble Eagle and Operation Enduring Freedom in continuation of the war on terrorism in accordance with the purposes stated in section 2(a) of the Authorization for Use of Military Force (Public Law 107–40; 50 U.S.C. 1541 note).

SEC. 1502. MOBILIZATION AND PERSONNEL.

Of the amount authorized to be appropriated in section 1501, $2,550,000,000 shall be available only for transfer (subject to sections 1507 and 1508) to fiscal year 2003 military personnel accounts of the Department of Defense for the purpose of providing for the personnel and personnel support costs of the members of the Armed Forces who are participating in Operation Noble Eagle or Operation Enduring Freedom in continuation of the war on terrorism in accordance with the purposes referred to in section 1501(a).

SEC. 1503. OPERATIONS.

Of the amount authorized to be appropriated in section 1501, $4,270,000,000 shall be available only for transfer (subject to sections 1507 and 1508) to fiscal year 2003 operation and maintenance accounts and working-capital funds of the Department of Defense for operating costs of the conduct of Operation Noble Eagle and Operation Enduring Freedom in continuation of the war on terrorism in accordance with the purposes referred to in section 1501(a).

SEC. 1504. EQUIPMENT REPLACEMENT AND ENHANCEMENT.

Of the amount authorized to be appropriated in section 1501, $1,000,000,000 shall be available only for transfer (subject to sections 1507 and 1508) to fiscal year 2003 procurement and research,

[12] For text, see *Legislation on Foreign Relations Through 2004*, vol. II, sec. F.

development, test, and evaluation accounts of the Department of Defense for—

(1) emergency replacement of equipment and munitions lost or expended in operations conducted as part of Operation Noble Eagle or Operation Enduring Freedom in continuation of the war on terrorism in accordance with the purposes referred to in section 1501(a); or

(2) enhancement of critical military capabilities necessary to carry out operations as part of those Operations in continuation of the war on terrorism in accordance with those purposes.

SEC. 1505. CLASSIFIED ACTIVITIES.

Of the amount authorized to be appropriated in section 1501, $1,980,000,000 shall be available only for unspecified intelligence and classified activities carried out in support of Operation Noble Eagle or Operation Enduring Freedom in continuation of the war on terrorism in accordance with the purposes referred to in section 1501(a), and only by transfer (subject to sections 1507 and 1508) to fiscal year 2003 accounts of the Department of Defense in amounts as follows:

(1) To procurement accounts, $1,618,200,000.

(2) To operation and maintenance accounts, $301,600,000.

(3) To research, development, test, and evaluation accounts, $60,200,000.

SEC. 1506. PROCUREMENT OF MUNITIONS.

Of the amount authorized to be appropriated in section 1501, $200,000,000 shall be available only for the procurement of munitions for the support of Operation Noble Eagle or Operation Enduring Freedom in continuation of the war on terrorism in accordance with the purposes referred to in section 1501(a), and only by transfer (subject to sections 1507 and 1508) to fiscal year 2003 procurement accounts of the Department of Defense in amounts as follows:

(1) To accounts of the Army for the procurement of ammunition $94,000,000.

(2) To accounts of the Navy for the procurement of weapons, $35,000,000.

(3) To accounts of the Navy and Marine Corps for the procurement of ammunition, $25,000,000.

(4) To accounts of the Air Force for the procurement of ammunition, $40,000,000.

(5) To Defense-wide procurement accounts for special operations forces, $6,000,000.

SEC. 1507. DISCRETIONARY RESTORATION OF AUTHORIZATIONS OF APPROPRIATIONS REDUCED FOR MANAGEMENT EFFICIENCIES.

(a) TRANSFER AUTHORITY.—(1) The Secretary of Defense may, subject to section 1508, transfer up to a total of $1,000,000,000 of the amount authorized to be appropriated by section 1501 to Department of Defense accounts under titles I, II, and III that are reduced for savings described in paragraph (2) if and to the extent that the Secretary determines that such savings are not achievable.

(2) The savings referred to in paragraph (1) are savings that are to be achieved from—

(A) improved management of Department of Defense contracts for the procurement of services; and

(B) the deferral of expenditures on financial management systems.

(b) RELATIONSHIP TO OTHER TITLE XV TRANSFER AUTHORITIES.—The total amount transferred under sections 1502 through 1506 and under section 1507 may not exceed the total amount authorized to be appropriated by section 1501.

SEC. 1508. GENERAL PROVISIONS APPLICABLE TO TRANSFERS.

(a) MERGER OF TRANSFERRED AMOUNTS.—Amounts transferred pursuant to this title shall be merged with, and shall be available for the same purposes and the same period as, the account to which transferred.

(b) CONGRESSIONAL NOTICE-AND-WAIT REQUIREMENT.—A transfer may not be made under section 1502, 1503, 1504, 1505, 1506, or 1507 until the Secretary of Defense has submitted a notice in writing to the congressional defense committees of the proposed transfer and a period of 15 days has elapsed after the date such notice is received. Any such notice shall include specification of the amount of the proposed transfer, the account to which the transfer is to be made, and the purpose of the transfer.

(c) RELATIONSHIP TO OTHER TRANSFER AUTHORITY.—The transfer authorities provided in this title are in addition to any other transfer authority available to the Secretary of Defense under any provision of any other title of this Act or under any other provision of law.

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DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

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Subtitle B—Program Authorizations, Restrictions, and Limitations

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SEC. 3143.[13] * * * [Redesignated—2003]

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[13] Formerly at 42 U.S.C. 7271d. Sec. 3141(e)(10) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1759) redesignated sec. 3143, relating to requirements for special request for new or modified nuclear weapons, to 50 U.S.C. 2529, as sec. 4209 of Public Law 107–314.

Subtitle C—Proliferation Matters

SEC. 3151.[14] TRANSFER TO NATIONAL NUCLEAR SECURITY ADMINISTRATION OF DEPARTMENT OF DEFENSE'S COOPERATIVE THREAT REDUCTION PROGRAM RELATING TO ELIMINATION OF WEAPONS GRADE PLUTONIUM PRODUCTION IN RUSSIA.

(a) TRANSFER OF PROGRAM.—There are hereby transferred to the Administrator for Nuclear Security the following:

(1) The program, within the Cooperative Threat Reduction program of the Department of Defense, relating to the elimination of weapons grade plutonium production in Russia.

(2) All functions, powers, duties, and activities of that program performed before the date of the enactment of this Act by the Department of Defense.

(b) TRANSFER OF ASSETS.—(1) Notwithstanding any restriction or limitation in law on the availability of Cooperative Threat Reduction funds specified in paragraph (2), so much of the property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the program transferred by subsection (a) are transferred to the Administrator for use in connection with the program transferred.

(2) The Cooperative Threat Reduction funds specified in this paragraph are the following:

(A) Fiscal year 2002 Cooperative Threat Reduction funds, as specified in section 1301(b) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1254; 22 U.S.C. 5952 note).

(B) Fiscal year 2001 Cooperative Threat Reduction funds, as specified in section 1301(b) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 114 Stat. 1654A–339; 22 U.S.C. 5959 note).

(C) Fiscal year 2000 Cooperative Threat Reduction funds, as specified in section 1301(b) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 792; 22 U.S.C. 5952 note).

(c) AVAILABILITY OF TRANSFERRED FUNDS.—(1) Notwithstanding any restriction or limitation in law on the availability of Cooperative Threat Reduction funds specified in subsection (b)(2), the Cooperative Threat Reduction funds transferred under subsection (b) for the program referred to in subsection (a) shall be available for activities as follows:

(A) To design and construct, refurbish, or both, fossil fuel energy plants in Russia that provide alternative sources of energy to the energy plants in Russia that produce weapons grade plutonium.

(B) To carry out limited safety upgrades of not more than three energy plants in Russia that produce weapons grade plutonium, provided that such upgrades do not extend the life of those plants.

[14] 22 U.S.C. 5952 note.

(2) Amounts available under paragraph (1) for activities referred to in that paragraph shall remain available for obligation for three fiscal years.

(d) LIMITATION.—(1) Of the amounts authorized to be appropriated by this title or any other Act for the program referred to in subsection (a), the Administrator for Nuclear Security may not obligate any funds for construction, or obligate or expend more than $100,000,000 for that program, until 30 days after the later of—

(A) the date on which the Administrator submits to the congressional defense committees, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate, a copy of an agreement or agreements entered into between the United States Government and the Government of the Russian Federation to shut down the three plutonium-producing reactors in Russia as specified under paragraph (2); and

(B) the date on which the Administrator submits to the committees specified in subparagraph (A) a report on a plan to achieve international participation in the program referred to in subsection (a), including cost sharing.

(2) The agreement (or agreements) under paragraph (1)(A) shall contain—

(A) a commitment to shut down the three plutonium-producing reactors;

(B) the date on which each such reactor will be shut down;

(C) a schedule and milestones for each such reactor to complete the shutdown of such reactor by the date specified under subparagraph (B);

(D) a schedule and milestones for refurbishment or construction of fossil fuel energy plants to be undertaken by the Government of the Russian Federation in support of the program;

(E) an arrangement for access to sites and facilities necessary to meet such schedules and milestones;

(F) an arrangement for audit and examination procedures in order to evaluate progress in meeting such schedules and milestones; and

(G) any cost sharing arrangements between the United States Government and the Government of the Russian Federation in undertaking activities under such agreement (or agreements).

(e)[15] INTERNATIONAL PARTICIPATION IN PROGRAM.—(1) In order to achieve international participation in the program referred to in subsection (a), the Secretary of Energy may, in consultation with the Secretary of State, enter into one or more agreements with any person, foreign government, or other international organization that the Secretary considers appropriate for the contribution of funds by such person, government, or organization for purposes of the program.

(2) Notwithstanding section 3302 of title 31, United States Code, and subject to paragraphs (3) and (4), the Secretary may retain and

[15] Added by sec. 3135 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2170).

utilize any amounts contributed by a person, government, or organization under an agreement under paragraph (1) for purposes of the program without further appropriation and without fiscal year limitation.

(3) The Secretary may not utilize under paragraph (2) any amount contributed under an agreement under paragraph (1) until 30 days after the date on which the Secretary notifies the congressional defense committees of the intent to utilize such amount, including the source of such amount and the proposed purpose for which such amount will be utilized.

(4) If any amount contributed under paragraph (1) has not been utilized within five years of receipt under that paragraph, the Secretary shall return such amount to the person, government, or organization contributing such amount under that paragraph.

(5) Not later than 30 days after the receipt of any amount contributed under paragraph (1), the Secretary shall submit to the congressional defense committees a notice of the receipt of such amount.

(6) Not later than October 31 each year, the Secretary shall submit to the congressional defense committees a report on the receipt and utilization of amounts under this subsection during the preceding fiscal year. Each report for a fiscal year shall set forth—

(A) a statement of any amounts received under this subsection, including the source of each such amount; and

(B) a statement of any amounts utilized under this subsection, including the purpose for which such amounts were utilized.

(7) The authority of the Secretary to accept and utilize amounts under this subsection shall expire on December 31, 2011.

SEC. 3152. REPEAL OF REQUIREMENT FOR REPORTS ON OBLIGATION OF FUNDS FOR PROGRAMS ON FISSILE MATERIALS IN RUSSIA.

Section 3131 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 617; 22 U.S.C. 5952 note) is amended—

(1) in subsection (a), by striking "(a) AUTHORITY.—"; and

(2) by striking subsection (b).

SEC. 3153. EXPANSION OF ANNUAL REPORTS ON STATUS OF NUCLEAR MATERIALS PROTECTION, CONTROL, AND ACCOUNTING PROGRAMS.

(a) COVERED PROGRAMS.—Subsection (a) of section 3171 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 114 Stat. 1654A–475; 22 U.S.C. 5952 note) is amended by striking "Russia that" and inserting "countries where such materials".

(b) REPORT CONTENTS.—Subsection (b) of that section is amended—

(1) in paragraph (1) by inserting "in each country covered by subsection (a)" after "locations,";

(2) in paragraph (2), by striking "in Russia" and inserting "in each such country";

(3) in paragraph (3), by inserting "in each such country" after "subsection (a)"; and

(4) in paragraph (5), by striking "by total amount and by amount per fiscal year" and inserting "by total amount per country and by amount per fiscal year per country".

SEC. 3154. TESTING OF PREPAREDNESS FOR EMERGENCIES INVOLVING NUCLEAR, RADIOLOGICAL, CHEMICAL, OR BIOLOGICAL WEAPONS.

(a) EXTENSION OF TESTING.—Section 1415 of the Defense Against Weapons of Mass Destruction Act of 1996 (title XIV of Public Law 104–201; 110 Stat. 2720; 50 U.S.C. 2315) is amended—

(1) in subsection (a)(2), by striking "of five successive fiscal years beginning with fiscal year 1997" and inserting "of fiscal years 1997 through 2013"; and

(2) in subsection (b)(2), by striking "of five successive fiscal years beginning with fiscal year 1997" and inserting "of fiscal years 1997 through 2013".

(b)[16] CONSTRUCTION OF EXTENSION WITH DESIGNATION OF ATTORNEY GENERAL AS LEAD OFFICIAL.—The amendments made by subsection (a) may not be construed as modifying the designation of the President titled "Designation of the Attorney General as the Lead Official for the Emergency Response Assistance Program Under Sections 1412 and 1415 of the National Defense Authorization Act for Fiscal Year 1997", dated April 6, 2000, designating the Attorney General to assume programmatic and funding responsibilities for the Emergency Response Assistance Program under sections 1412 and 1415 of the Defense Against Weapons of Mass Destruction Act of 1996 (title XIV of the National Defense Authorization Act for Fiscal Year 1997).

SEC. 3155.[17] COOPERATIVE PROGRAM ON RESEARCH, DEVELOPMENT, AND DEMONSTRATION OF TECHNOLOGY REGARDING NUCLEAR OR RADIOLOGICAL TERRORISM.

(a) PROGRAM REQUIRED.—The Administrator for Nuclear Security shall carry out with the Russian Federation a cooperative program on the research, development, and demonstration of technologies for protection from and response to nuclear or radiological terrorism.

(b) PROGRAM ELEMENTS.—In carrying out the program required by subsection (a), the Administrator shall—

(1) conduct research and development of technology for protection from nuclear or radiological terrorism, including technology for the detection, identification, assessment, control, and disposition of radiological materials that could be used for nuclear terrorism; and

(2) provide, where feasible, for the demonstration to other countries of technologies or methodologies on matters relating to nuclear or radiological terrorism, including—

(A) the demonstration of technologies developed under the program to respond to nuclear or radiological terrorism;

(B) the demonstration of technologies developed under the program for the disposal of radioactive materials;

[16] 50 U.S.C. 2315 note.
[17] 50 U.S.C. 2315 note.

(C) the demonstration of methodologies developed under the program for use in evaluating the radiological threat of radiological sources identified as not under current accounting programs in the audit report of the Inspector General of the Department of Energy titled "Accounting for Sealed Sources of Nuclear Material Provided to Foreign Countries" (DOEIG–0546);

(D) in coordination with the Nuclear Regulatory Commission, the demonstration of methodologies developed under the program to facilitate the development of a regulatory framework for licensing and controlling radioactive sources; and

(E) in coordination with the Office of Environment, Safety, and Health of the Department of Energy, the demonstration of methodologies developed under the program to facilitate development of consistent criteria for screening international transfers of radiological materials.

(c) CONSULTATION.—In carrying out activities in accordance with subsection (b)(2), the Administrator shall consult with—

(1) the Secretary of Defense, Secretary of State, and Secretary of Commerce; and

(2) the International Atomic Energy Agency.

(d) AMOUNT FOR ACTIVITIES.—Of the amount authorized to be appropriated by section 3101(a)(2) for the Department of Energy for the National Nuclear Security Administration for defense nuclear nonproliferation, up to $15,000,000 may be available for carrying out this section.

SEC. 3156.[18] MATTERS RELATING TO THE INTERNATIONAL MATERIALS PROTECTION, CONTROL, AND ACCOUNTING PROGRAM OF THE DEPARTMENT OF ENERGY.

(a) RADIOLOGICAL DISPERSAL DEVICE MATERIALS PROTECTION, CONTROL, AND ACCOUNTING.—The Secretary of Energy may establish within the International Materials Protection, Control, and Accounting program of the Department of Energy a program on the protection, control, and accounting of materials usable in radiological dispersal devices. In establishing such program, the Secretary shall—

(1) identify the sites and radiological materials to be covered by such program;

(2) carry out a risk assessment of such radiological materials; and

(3) identify and establish the costs of and schedules for such program.

(b) REVISED FOCUS FOR MATERIALS PROTECTION, CONTROL, AND ACCOUNTING PROGRAM OF RUSSIAN FEDERATION.—(1) The Secretary of Energy shall work cooperatively with the Russian Federation to develop, as soon as practicable but not later than January 1, 2013, a sustainable nuclear materials protection, control, and accounting system for the nuclear materials of the Russian Federation that is supported solely by the Russian Federation.

(2) The Secretary shall work with the Russian Federation to identify various alternatives to provide the United States adequate

[18] 50 U.S.C. 2343.

transparency in the nuclear materials protection, control, and accounting program of the Russian Federation to assure that such program is meeting applicable goals for nuclear materials protection, control, and accounting.

(c) AMOUNT FOR ACTIVITIES.—Of the amount authorized to be appropriated by section 3101(a)(2) for the Department of Energy for the National Nuclear Security Administration for defense nuclear nonproliferation, up to $5,000,000 may be available for carrying out this section.

SEC. 3157.[19] ACCELERATED DISPOSITION OF HIGHLY ENRICHED URANIUM.

(a) PROGRAM ON ACCELERATED DISPOSITION OF HEU AUTHORIZED.—(1) The Secretary of Energy may carry out a program to pursue with the Russian Federation options for blending highly enriched uranium so that the concentration of U–235 in such uranium is below 20 percent.

(2) The options pursued under paragraph (1) shall include expansion of the Material Consolidation and Conversion program of the Department of Energy to include—

(A) additional facilities for the blending of highly enriched uranium; and

(B) additional centralized secure storage facilities for highly enriched uranium designated for blending.

(3) Any site selected for the storage of uranium or blended material under paragraph (2)(B) shall undergo complete materials protection, control, and accounting upgrades before the commencement of the storage of uranium or blended material at such site under the program.

(b) CONSTRUCTION WITH HEU DISPOSITION AGREEMENT.—Nothing in this section may be construed as terminating, modifying, or otherwise affecting requirements for the disposition of highly enriched uranium under the Agreement Between the Government of the United States of America and the Government of the Russian Federation Concerning the Disposition of Highly Enriched Uranium Extracted from Nuclear Weapons, signed at Washington on February 18, 1993.

(c) LIMITATION ON RELEASE FOR SALE OF BLENDED URANIUM.—Uranium blended under this section may not be released for sale until the earlier of—

(1) January 1, 2014; or

(2) the date on which the Secretary certifies that such uranium can be absorbed into the global market without undue disruption to the uranium mining, conversion, and enrichment industry in the United States.

(d) AMOUNT FOR ACTIVITIES.—Of the amount to be appropriated by section 3101(a)(2) for the Department of Energy for the National Nuclear Security Administration for defense nuclear nonproliferation, up to $10,000,000 may be available for carrying out this section.

[19] 22 U.S.C. 5952 note.

SEC. 3158.[20] STRENGTHENED INTERNATIONAL SECURITY FOR NUCLEAR MATERIALS AND SECURITY OF NUCLEAR OPERATIONS.

(a) REPORT ON OPTIONS FOR INTERNATIONAL PROGRAM TO STRENGTHEN SECURITY.—(1) Not later than 270 days after the date of the enactment of this Act, the Secretary of Energy shall submit to Congress a report on options for an international program to develop strengthened security for nuclear reactors and associated materials outside the United States.

(2) In evaluating options for purposes of the report, the Secretary shall consult with the Nuclear Regulatory Commission and the International Atomic Energy Agency on the feasibility and advisability of actions to reduce the risks associated with terrorist attacks on nuclear reactors outside the United States.

(b) JOINT PROGRAMS WITH RUSSIA ON PROLIFERATION-RESISTANT NUCLEAR ENERGY TECHNOLOGIES.—(1) The Secretary shall pursue with the Ministry of Atomic Energy of the Russian Federation joint programs between the United States and the Russian Federation on the development of proliferation-resistant nuclear energy technologies, including advanced fuel cycles.

(2) Of the amount authorized to be appropriated by section 3101(a)(2) for the Department of Energy for the National Nuclear Security Administration for defense nuclear nonproliferation, up to $10,000,000 may be available for carrying out the joint programs referred to in paragraph (1).

(c) ASSISTANCE REGARDING HOSTILE INSIDERS.—The Secretary may, utilizing appropriate expertise of the Department of Energy and the Nuclear Regulatory Commission, provide technical assistance to nuclear reactor facilities outside the United States with respect to the interdiction of hostile insiders at such facilities in order to prevent incidents arising from the disablement of the vital systems of such facilities.

SEC. 3159.[21] EXPORT CONTROL PROGRAMS.

(a) AUTHORITY TO PURSUE OPTIONS FOR STRENGTHENING EXPORT CONTROL PROGRAMS.—The Secretary of Energy, in coordination with the Secretary of State, may pursue in the region of the former Soviet Union and other regions of concern options for accelerating programs that assist the countries in such regions in improving their domestic export control programs for materials, technologies, and expertise relevant to the construction or use of a nuclear or radiological dispersal device.

(b) AMOUNT FOR ACTIVITIES.—Of the amount authorized to be appropriated by section 3101(a)(2) for the Department of Energy for the National Nuclear Security Administration for defense nuclear nonproliferation, up to $5,000,000 may be available for carrying out this section.

[20] 50 U.S.C. 2344.
[21] 50 U.S.C. 2345.

SEC. 3160.[22] PLAN FOR ACCELERATED RETURN OF WEAPONS-USABLE NUCLEAR MATERIALS.

(a) PLAN FOR ACCELERATED RETURN.—The Secretary of Energy shall work with the Russian Federation to develop a plan to accelerate the return to Russia of all weapons-usable nuclear materials located in research reactors and other facilities outside Russia that were supplied by the former Soviet Union.

(b) FUNDING AND SCHEDULES.—As part of the plan under subsection (a), the Secretary shall identify the funding and schedules required to assist the research reactors and facilities referred to in that subsection in—

(1) transferring highly enriched uranium to Russia; and

(2) upgrading the materials protection, control, and accounting procedures at such research reactors and facilities until the weapons-usable nuclear materials in such reactors and facilities are returned in accordance with that subsection.

(c) COORDINATION.—The provision of assistance under subsection (b) shall be closely coordinated with the International Atomic Energy Agency.

SEC. 3161. SENSE OF CONGRESS ON AMENDMENT OF CONVENTION ON PHYSICAL PROTECTION OF NUCLEAR MATERIALS.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the President should encourage amendment of the Convention on the Physical Protection of Nuclear Materials in order to provide that the Convention shall—

(1) apply to both the domestic and international use and transport of nuclear materials;

(2) incorporate fundamental practices for the physical protection of such materials; and

(3) address protection against sabotage involving nuclear materials.

(b) CONVENTION ON THE PHYSICAL PROTECTION OF NUCLEAR MATERIAL DEFINED.—In this section, the term "Convention on the Physical Protection of Nuclear Materials" means the Convention on the Physical Protection of Nuclear Materials, With Annex, done at Vienna on October 26, 1979.

SEC. 3162. SENSE OF CONGRESS ON PROGRAM TO SECURE STOCKPILES OF HIGHLY ENRICHED URANIUM AND PLUTONIUM.

It is the sense of Congress that the Secretary of Energy should, in consultation with the Secretary of State and Secretary of Defense, develop a comprehensive program of activities to encourage all countries with nuclear materials to adhere to, or to adopt standards equivalent to, the International Atomic Energy Agency standard on The Physical Protection of Nuclear Material and Nuclear Facilities (INFCIRC/225/Rev.4), relating to the security of stockpiles of highly enriched uranium (HEU) and plutonium (Pu).

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[22] 22 U.S.C. 5952 note.

DIVISION D—ATOMIC ENERGY DEFENSE PROVISIONS[23]

SEC. 4001.[24] SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This division may be cited as the "Atomic Energy Defense Act".

(b) TABLE OF CONTENTS.—* * *

SEC. 4002.[25] DEFINITION.

In this division, the term "congressional defense committees" means—

(1) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

(2) the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.

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TITLE XLII—NUCLEAR WEAPONS STOCKPILE MATTERS[26]

Subtitle A—Stockpile Stewardship and Weapons Production

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SEC. 4207.[27] NUCLEAR TEST BAN READINESS PROGRAM.

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

(1) On September 17, 1987, the United States and the Soviet Union announced that they would resume full-scale, stage-by-

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[23] Sec. 3141(b) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1753) added Division D to the end of this Act, largely by redesignating sections enacted in other National Defense Authorization Acts as sections in this newly created division.

[24] 50 U.S.C. 2501 note. Formerly at 42 U.S.C. 7101 note. Sec. 3601 of the Atomic Energy Defense Act (title XXXVI of Public Law 107–314; 116 Stat. 2756), was redesignated to this newly created division and amended to refer to "division" instead of "title" by sec. 3141(c)(1) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1753).

[25] 50 U.S.C. 2501. Added by sec. 3141(c)(2) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1754).

[26] Sec. 3141(e)(1) of National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1758) added title and subtitle designations.

[27] 50 U.S.C. 2527. Formerly at 42 U.S.C. 2121 note, at sec. 1436 of Public Law 100–456. Redesignated as sec. 4207 by sec. 3141(e)(8) of National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1759).

Sec. 1031(15) of Public Law 106–65 (113 Stat. 750) made sec. 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 (Public Law 104–66; 31 U.S.C. 1113 note), as amended, which provided that "each provision of law requiring the submittal to Congress (or any committee of the Congress) of any annual, semiannual, or other regular periodic report specified * * * shall cease to be effective, with respect to that requirement, May 15, 2000.", inapplicable to this section. For Public Law 104–66 and other legislation on the repeal of reporting requirements, see *Legislation on Foreign Relations Through 2004*, vol. IV.

Sec. 3140 of Public Law 102–190 (105 Stat. 1580) provided the following:

"SEC. 3140. REPORT ON SCHEDULE FOR RESUMPTION OF NUCLEAR TESTING TALKS AND TEST BAN READINESS PROGRAM.

"(a) SENSE OF CONGRESS.—It is the sense of Congress that the United States and the Soviet Union share a special responsibility to resume the Nuclear Testing Talks to continue negotiations toward additional limitations on nuclear weapons testing.

"(b) REPORT.—Not later than 60 days after the date of the enactment of this Act, the President shall submit to Congress a report containing a proposed schedule for resumption of the Nuclear Testing Talks and identifying the goals to be pursued in those talks.

"(c) NUCLEAR TEST BAN READINESS PROGRAM.—Of the funds appropriated to the Department of Energy for fiscal year 1992 for weapons activities, $20,000,000 shall be available to conduct the nuclear test ban readiness program established pursuant to section 1436 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 42 U.S.C. 2121 note).".

stage negotiations on issues relating to nuclear testing, including further intermediate limitations on nuclear testing leading to the ultimate objective of a comprehensive nuclear test ban.

(2) It was agreed that the first step in these negotiations would be to reach agreement on verification measures that will make possible the ratification of the Threshold Test Ban Treaty of 1974 and the Peaceful Nuclear Explosions Treaty of 1976.

(3) To achieve the agreement on verification measures, the United States and the Soviet Union have agree to design and conduct a Joint Verification Experiment at the test sites of each country during the summer of 1988.

(4) At the Moscow summit in May 1988, President Reagan and General Secretary Gorbachev reaffirmed their commitment to negotiations on "effective verification measures which will make it possible to ratify the Threshold Test Ban Treaty of 1974 and Peaceful Nuclear Explosions Treaty of 1976, and proceed to negotiating further intermediate limitations on nuclear testing leading to the ultimate objective of the complete cessation of nuclear testing as part of an effective disarmament process".

(b) ESTABLISHMENT OF PROGRAM.—The Secretary of Energy shall establish and support a program to assure that the United States is in a position to maintain the reliability, safety, and continued deterrent effect of its stockpile of existing nuclear weapons designs in the event that a low-threshold or comprehensive ban on nuclear explosives testing is negotiated and ratified within the framework agreed to by the United States and the Soviet Union.

(c) PURPOSES OF PROGRAM.—The purposes of the program under subsection (b) shall be the following:

(1) To assure that the United States maintains a vigorous program of stockpile inspection and non-explosive testing so that, if a low-threshold or comprehensive test ban is entered into, the United States remains able to detect and identify potential problems in stockpile reliability and safety in existing designs of nuclear weapons.

(2) To assure that the specific materials, components, processes, and personnel needed for the remanufacture of existing nuclear weapons or the substitution of alternative nuclear warheads are available to support such remanufacture or substitution if such action becomes necessary in order to satisfy reliability and safety requirements under a low-threshold or comprehensive test ban agreement.

(3) To assure that a vigorous program of research in areas related to nuclear weapons science and engineering is supported so that, if a low-threshold comprehensive test ban agreement is entered into, the United States is able to maintain a base of technical knowledge about nuclear weapons design and nuclear weapons effects.

(d) CONDUCT OF PROGRAM.—The Secretary of Energy shall carry out the program provided for in subsection (b). The program shall be carried out with the participation of representatives of the Department of Defense, the nuclear weapons production facilities, and the national nuclear weapons laboratories.

(e)[28] * * * [Repealed—1997]

SEC. 4208.[29] STUDY ON NUCLEAR TEST READINESS POSTURES.

(a)[30] REPORT.—Not later than February 15, 1996, the Secretary of Energy shall submit to Congress a report on the costs, programmatic issues, and other issues associated with sustaining the capability of the Department of Energy—

(1) to conduct an underground nuclear test 6 months after the date on which the President determines that such a test is necessary to ensure the national security of the United States;

(2) to conduct such a test 18 months after such date; and

(3) to conduct such a test 36 months after such date.

(b)[31] BIENNIAL UPDATE REPORT.—(1) Not later than February 15 of each odd-numbered year, the Secretary shall submit to the congressional defense committees a report containing an update of the report required under subsection (a), as updated by any report previously submitted under this paragraph.

(2) Each report under paragraph (1) shall include, as of the date of such report, the following:

(A) A list and description of the workforce skills and capabilities that are essential to carry out underground nuclear tests at the Nevada Test Site.

(B) A list and description of the infrastructure and physical plant that are essential to carry out underground nuclear tests at the Nevada Test Site.

(C) A description of the readiness status of the skills and capabilities described in subparagraph (A) and of the infrastructure and physical plant described in subparagraph (B).

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

SEC. 4209.[32] REQUIREMENTS FOR SPECIFIC REQUEST FOR NEW OR MODIFIED NUCLEAR WEAPONS.

(a) REQUIREMENT FOR REQUEST FOR FUNDS FOR DEVELOPMENT.—(1) In any fiscal year after fiscal year 2002 in which the Secretary of Energy plans to carry out activities described in paragraph (2) relating to the development of a new nuclear weapon or modified nuclear weapon, the Secretary shall specifically request funds for such activities in the budget of the President for that fiscal year under section 1105(a) of title 31, United States Code.

(2) The activities described in this paragraph are as follows:

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[28] Sec. 3152(i) of Public Law 105–85 (111 Stat. 2042) struck out subsec. (e), which had read as follows:

"(e) ANNUAL REPORT.—The Secretary of Energy shall submit to Congress each year an unclassified report (with a classified annex as necessary) that describes the progress made to the date of the report in achieving the purposes of the program required to be established under subsection (b).".

[29] 50 U.S.C. 2528. Formerly at 42 U.S.C. 2121 note, as sec. 3152 of Public Law 104–106. Redesignated as sec. 4208 by sec. 3141(e)(9) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1759).

[30] Sec. 3192(1) of Public Law 106–398 (114 Stat. 1564) inserted "(a) REPORT.—" before "Not later than".

Sec. 3158 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2842) required the Secretary of Energy to submit a second, updated, report not later than June 1, 1997.

[31] Sec. 3192(2) of Public Law 106–398 (114 Stat. 1654) added subsec. (b).

[32] 50 U.S.C. 2529. Formerly at 42 U.S.C. 7271d, as sec. 3143 of this Act. Redesignated as sec. 4209 by sec. 3141(e)(10) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1759).

(A) The conduct, or provision for conduct, of research and development which could lead to the production of a new nuclear weapon by the United States.

(B) The conduct, or provision for conduct, of engineering or manufacturing to carry out the production of a new nuclear weapon by the United States.

(C) The conduct, or provision for conduct, of research and development which could lead to the production of a modified nuclear weapon by the United States.

(D) The conduct, or provision for conduct, of engineering or manufacturing to carry out the production of a modified nuclear weapon by the United States.

(b) BUDGET REQUEST FORMAT.—The Secretary shall include in a request for funds under subsection (a) the following:

(1) In the case of funds for activities described in subparagraph (A) or (C) of subsection (a)(2), a single dedicated line item for all such activities for new nuclear weapons or modified nuclear weapons that are in phase 1, 2, or 2A or phase 6.1, 6.2, or 6.2A (as the case may be), or any concept work prior to phase 1 or 6.1 (as the case may be), of the nuclear weapons acquisition process.

(2) In the case of funds for activities described in subparagraph (B) or (D) of subsection (a)(2), a dedicated line item for each such activity for a new nuclear weapon or modified nuclear weapon that is in phase 3 or higher or phase 6.3 or higher (as the case may be) of the nuclear weapons acquisition process.

(c) EXCEPTION.—Subsection (a) shall not apply to funds for purposes of conducting, or providing for the conduct of, research and development, or manufacturing and engineering, determined by the Secretary to be necessary—

(1) for the nuclear weapons life extension program;

(2) to modify an existing nuclear weapon solely to address safety or reliability concerns; or

(3) to address proliferation concerns.

(d) DEFINITIONS.—In this section:

(1) The term "life extension program" means the program to repair or replace non-nuclear components, or to modify the pit or canned subassembly, of nuclear weapons that are in the nuclear weapons stockpile on the date of the enactment of this Act in order to assure that such nuclear weapons retain the ability to meet the military requirements applicable to such nuclear weapons when first placed in the nuclear weapons stockpile.

(2) The term "modified nuclear weapon" means a nuclear weapon that contains a pit or canned subassembly, either of which—

(A) is in the nuclear weapons stockpile as of the date of the enactment of this Act; and

(B) is being modified in order to meet a military requirement that is other than the military requirements applicable to such nuclear weapon when first placed in the nuclear weapons stockpile.

(3) The term "new nuclear weapon" means a nuclear weapon that contains a pit or canned subassembly, either of which is neither—

(A) in the nuclear weapons stockpile on the date of the enactment of this Act; nor

(B) in production as of that date.

SEC. 4210.[33] LIMITATION ON UNDERGROUND NUCLEAR WEAPONS TESTS.

No underground test of nuclear weapons may be conducted by the United States after September 30, 1996, unless a foreign state conducts a nuclear test after this date, at which time the prohibition on United States nuclear testing is lifted.

SEC. 4211.[34] TESTING OF NUCLEAR WEAPONS.

(a) IN GENERAL.—Of the funds authorized to be appropriated under section 3101(a)(2) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160)[35] for the Department of Energy for fiscal year 1994 for weapons testing, $211,326,000 shall be available for infrastructure maintenance at the Nevada Test Site, and for maintaining the technical capability to resume underground nuclear testing at the Nevada Test Site.

(b) ATMOSPHERIC TESTING OF NUCLEAR WEAPONS.—None of the funds appropriated pursuant to the National Defense Authorization Act for Fiscal Year 1994[36] or any other Act for any fiscal year may be available to maintain the capability of the United States to conduct atmospheric testing of a nuclear weapon.

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TITLE XLIII—PROLIFERATION MATTERS[37]

SEC. 4301.[38] INTERNATIONAL COOPERATIVE STOCKPILE STEWARDSHIP.

(a) FUNDING PROHIBITION.—No funds authorized to be appropriated or otherwise available to the Department of Energy for any fiscal year[39] may be obligated or expended to conduct any activities associated with international cooperative stockpile stewardship.

(b) EXCEPTIONS.—Subsection (a) does not apply to the following:

(1) Activities conducted between the United States and the United Kingdom.

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[33] 50 U.S.C. 2530. Sec. 3141(e)(11) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1760) redesignated sec. 507(f) of the Energy and Water Development Appropriations Act, 1993 as sec. 4210, striking out "(f)". Sec. 3141(e)(11) of Public Law 108–136 cites the appropriations measure as Public Law 102–337; should read Public Law 102–377.

[34] 50 U.S.C. 2531. Formerly at 42 U.S.C. 2121 note. Originally enacted as sec. 3137 of Public Law 103–160; redesignated by sec. 3141(e)(12) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1760).

[35] Sec. 3141(e)(12)(D)(i) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1760) inserted "of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160)".

[36] Sec. 3141(e)(12)(D)(ii) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1760) struck out "this Act" and inserted in lieu thereof "the National Defense Authorization Act for Fiscal Year 1994".

[37] Sec. 3141(f)(1) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1762) added title designation.

[38] 50 U.S.C. 2561. Formerly at 42 U.S.C. 7273c, at sec. 3133 of Public Law 105–85; redesignated by sec. 3141(f)(2) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1762).

[39] Sec. 3131 of Public Law 105–261 (112 Stat. 2246) struck out "for fiscal year 1998" and inserted in lieu thereof "for any fiscal year".

(2) Activities conducted between the United States and France.

(3) Activities carried out under title XIV of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85)[40] relating to cooperative threat reduction with states of the former Soviet Union.

SEC. 4302.[41] NONPROLIFERATION INITIATIVES AND ACTIVITIES.

(a) INITIATIVE FOR PROLIFERATION PREVENTION PROGRAM.—(1) Not more than 35 percent of the funds available in any fiscal year after fiscal year 1999 for the Initiatives for Proliferation Prevention program (IPP) may be obligated or expended by the Department of Energy national laboratories to carry out or provide oversight of any activities under that program.

(2)(A) None of the funds available in any fiscal year after fiscal year 1999 for the Initiatives for Proliferation Prevention program may be used to increase or otherwise supplement the pay or benefits of a scientist or engineer if the scientist or engineer—

(i) is currently engaged in activities directly related to the design, development, production, or testing of chemical or biological weapons or a missile system to deliver such weapons; or

(ii) was not formerly engaged in activities directly related to the design, development, production, or testing of weapons of mass destruction or a missile system to deliver such weapons.

(B) None of the funds available in any fiscal year after fiscal year 1999 for the Initiatives for Proliferation Prevention program may be made available to an institute if the institute—

(i) is currently involved in activities described in subparagraph (A)(i); or

(ii) was not formerly involved in activities described in subparagraph (A)(ii).

(3)(A) No funds available for the Initiatives for Proliferation Prevention program may be provided to an institute or scientist under the program if the Secretary of Energy determines that the institute or scientist has made a scientific or business contact in any way associated with or related to weapons of mass destruction with a representative of a country of proliferation concern.

(B) For purposes of this paragraph, the term "country of proliferation concern" means any country so designated by the Director of Central Intelligence for purposes of the Initiatives for Proliferation Prevention program.

(4)(A) The Secretary of Energy shall prescribe procedures for the review of projects under the Initiatives for Proliferation Prevention program. The purpose of the review shall be to ensure the following:

(i) That the military applications of such projects, and any information relating to such applications, is not inadvertently transferred or utilized for military purposes.

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[40] Sec. 1069(b)(3) of Public Law 105–261 (112 Stat. 2136) struck out "III" and inserted in lieu thereof "XIV". Sec. 3141(f)(2)(D) of Public Law 108–136 (117 Stat. 1762) struck out "this Act" and inserted in lieu thereof "the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85)".

[41] 50 U.S.C. 2562. Redesignated from sec. 3136 of Public Law 106–65 by sec. 3141(f)(3) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1762).

(ii) That activities under the projects are not redirected toward work relating to weapons of mass destruction.

(iii) That the national security interests of the United States are otherwise fully considered before the commencement of the projects.

(B) Not later than 30 days after the date on which the Secretary prescribes the procedures required by subparagraph (A), the Secretary shall submit to Congress a report on the procedures. The report shall set forth a schedule for the implementation of the procedures.

(5)(A) The Secretary shall evaluate the projects carried out under the Initiatives for Proliferation Prevention program for commercial purposes to determine whether or not such projects are likely to achieve their intended commercial objectives.

(B) If the Secretary determines as a result of the evaluation that a project is not likely to achieve its intended commercial objective, the Secretary shall terminate the project.

(6) Funds appropriated for the Initiatives for Proliferation Prevention program may not be used to pay any tax or customs duty levied by the government of the Russian Federation. In the event payment of such a tax or customs duty with such funds is unavoidable, the Secretary of Energy shall—

(A) after such payment, submit a report to the congressional defense committees explaining the particular circumstances making such payment under the Initiatives for Proliferation Prevention program with such funds unavoidable; and

(B) ensure that sufficient additional funds are provided to the Initiatives for Proliferation Prevention Program to offset the amount of such payment.

(b) NUCLEAR CITIES INITIATIVE.—(1) No amounts authorized to be appropriated by title XXXI of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65)[42] for the Nuclear Cities Initiative may be obligated or expended for purposes of the initiative until the Secretary of Energy certifies to Congress that Russia has agreed to close some of its facilities engaged in work on weapons of mass destruction.

(2) Notwithstanding a certification under paragraph (1), amounts authorized to be appropriated by this title for the Nuclear Cities Initiative may not be obligated or expended for purposes of providing assistance under the initiative to more than three nuclear cities, and more than two serial production facilities, in Russia in fiscal year 2000.

(3)(A) The Secretary shall conduct a study of the potential economic effects of each commercial program proposed under the Nuclear Cities Initiative before providing assistance for the conduct of the program. The study shall include an assessment regarding whether or not the mechanisms for job creation under each program are likely to lead to the creation of the jobs intended to be created by that program.

(B) If the Secretary determines as a result of the study that the intended commercial benefits of a program are not likely to be

[42] Sec. 3141(f)(3)(D) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1762) struck out "this title" and inserted in lieu thereof "title XXXI of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65)".

achieved, the Secretary may not provide assistance for the conduct of that program.

(4) Not later than January 1, 2000, the Secretary shall submit to Congress a report describing the participation in or contribution to the Nuclear Cities Initiative of each department and agency of the United States Government that participates in or contributes to the initiative. The report shall describe separately any interagency participation in or contribution to the initiative.

(c) REPORT.—(1) Not later than January 1, 2000, the Secretary of Energy shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the Initiatives for Proliferation Prevention program and the Nuclear Cities Initiative.

(2) The report shall include the following:

(A) A strategic plan for the Initiatives for Proliferation Prevention program and for the Nuclear Cities Initiative, which shall establish objectives for the program or initiative, as the case may be, and means for measuring the achievement of such objectives.

(B) A list of the most successful projects under the Initiatives for Proliferation Prevention program, including for each such project the name of the institute and scientists who are participating or have participated in the project, the number of jobs created through the project, and the manner in which the project has met the nonproliferation objectives of the United States.

(C) A list of the institutes and scientists associated with weapons of mass destruction programs or other defense-related programs in the states of the former Soviet Union that the Department seeks to engage in commercial work under the Initiatives for Proliferation Prevention program or the Nuclear Cities Initiative, including—

(i) a description of the work performed by such institutes and scientists under such weapons of mass destruction programs or other defense-related programs; and

(ii) a description of any work proposed to be performed by such institutes and scientists under the Initiatives for Proliferation Prevention program or the Nuclear Cities Initiative.

(d) NUCLEAR CITIES INITIATIVE DEFINED.—For purposes of this section, the term "Nuclear Cities Initiative" means the initiative arising pursuant to the March 1998 discussions between the Vice President of the United States and the Prime Minister of the Russian Federation and between the Secretary of Energy of the United States and the Minister of Atomic Energy of the Russian Federation.

SEC. 4303.[43] ANNUAL REPORT ON STATUS OF NUCLEAR MATERIALS PROTECTION, CONTROL, AND ACCOUNTING PROGRAM.

(a) REPORT REQUIRED.—Not later than January 1 of each year, the Secretary of Energy shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the status of efforts during the preceding fiscal year under the Nuclear Materials Protection, Control, and Accounting Program of the Department of Energy to secure weapons-usable nuclear materials in countries where such materials[44] have been identified as being at risk for theft or diversion.

(b) CONTENTS.—Each report under subsection (a) shall include the following:

(1) The number of buildings, including building locations in each country covered by subsection (a),[45] that received complete and integrated materials protection, control, and accounting systems for nuclear materials described in subsection (a) during the year covered by such report.

(2) The amounts of highly enriched uranium and plutonium in each such country[46] that have been secured under systems described in paragraph (1) as of the date of such report.

(3) The amount of nuclear materials described in subsection (a) in each such country[47] that continues to require securing under systems described in paragraph (1) as of the date of such report.

(4) A plan for actions to secure the nuclear materials identified in paragraph (3) under systems described in paragraph (1), including an estimate of the cost of such actions.

(5) The amounts expended through the fiscal year preceding the date of such report to secure nuclear materials described in subsection (a) under systems described in paragraph (1), set forth by total amount per country and by amount per fiscal year per country.[48]

(c) LIMITATION ON USE OF CERTAIN FUNDS.—(1) No amounts authorized to be appropriated for the Department of Energy by the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398)[49] or any other Act for purposes of the Nuclear Materials Protection, Control,

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[43] 50 U.S.C. 2563. Sec. 3141(f)(4) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1763) redesignated sec. 3171 of Public Law 106–398, relating to annual reports on the status of nuclear materials protection, control, and accounting, as sec. 4303.

[44] Sec. 3153(a) of Public Law 107–314 (116 Stat. 2738) struck out "Russia that" and inserted in lieu thereof "countries where such materials".

[45] Sec. 3153(b)(1) of Public Law 107–314 (116 Stat. 2738) inserted "in each country covered by subsection (a)" after "locations".

[46] Sec. 3153(b)(2) of Public Law 107–314 (116 Stat. 2738) struck out "in Russia" and inserted in lieu thereof "in each such country".

[47] Sec. 3153(b)(3) of Public Law 107–314 (116 Stat. 2738) inserted "in each such country" after "subsection (a)".

[48] Sec. 3153(b)(4) of Public Law 107–314 (116 Stat. 2738) struck out "by total amount and by amount per fiscal year" and inserted in lieu thereof "by total amount per country and by amount per fiscal year per country".

[49] Sec. 3141(f)(4) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1763) struck out "this Act" and inserted in lieu thereof "the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398)".

and Accounting Program may be obligated or expended after September 30, 2000, for any project under the program at a site controlled by the Russian Ministry of Atomic Energy (MINATOM) in Russia until the Secretary submits to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the access policy established with respect to such project, including a certification that the access policy has been implemented.

(2) The access policy with respect to a project under this subsection shall—

(A) permit appropriate determinations by United States officials regarding security requirements, including security upgrades, for the project; and

(B) ensure verification by United States officials that Department of Energy assistance at the project is being used for the purposes intended.

SEC. 4304.[50] NUCLEAR CITIES INITIATIVE.

(a) IN GENERAL.—(1) The Secretary of Energy may, in accordance with the provisions of this section, expand and enhance the activities of the Department of Energy under the Nuclear Cities Initiative.

(2) In this section, the term "Nuclear Cities Initiative" means the initiative arising pursuant to the joint statement dated July 24, 1998, signed by the Vice President of the United States and the Prime Minister of the Russian Federation and the agreement dated September 22, 1998, between the United States and the Russian Federation.

(b) FUNDING FOR FISCAL YEAR 2001.—There is hereby authorized to be appropriated for the Department of Energy for fiscal year 2001 $30,000,000 for purposes of the Nuclear Cities Initiative.

(c) LIMITATION PENDING SUBMISSION OF AGREEMENT.—No amount authorized to be appropriated or otherwise made available for the Department of Energy for fiscal year 2001 for the Nuclear Cities Initiative may be obligated or expended to provide assistance under the Initiative for more than three nuclear cities in Russia and two serial production facilities in Russia until 30 days after the date on which the Secretary of Energy submits to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a copy of a written agreement between the United States Government and the Government of the Russian Federation which provides that Russia will close some of its facilities engaged in nuclear weapons assembly and disassembly work.

(d) LIMITATION PENDING IMPLEMENTATION OF PROJECT REVIEW PROCEDURES.—(1) Not more than $8,750,000 of the amounts referred to in subsection (b) may be obligated or expended for purposes of the Initiative until the Secretary of Energy establishes and

[50] 50 U.S.C. 2564. Sec. 3141(f)(5) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1763) redesignated sec. 3172 of Public Law 106–398 as sec. 4304.

implements project review procedures for projects under the Initiative and submits to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the project review procedures so established and implemented.

(2) The project review procedures established under paragraph (1) shall ensure that any scientific, technical, or commercial project initiated under the Initiative—

(A) will not enhance the military or weapons of mass destruction capabilities of Russia;

(B) will not result in the inadvertent transfer or utilization of products or activities under such project for military purposes;

(C) will be commercially viable; and

(D) will be carried out in conjunction with an appropriate commercial, industrial, or nonprofit entity as partner.

(e) LIMITATION PENDING CERTIFICATION AND REPORT.—No amount in excess of $17,500,000 authorized to be appropriated for the Department of Energy for fiscal year 2001 for the Nuclear Cities Initiative may be obligated or expended for purposes of providing assistance under the Initiative until 30 days after the date on which the Secretary of Energy submits to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives the following:

(1) A copy of the written agreement between the United States and the Russian Federation which provides that Russia will close some of its facilities engaged in nuclear weapons assembly and disassembly work within five years of the date of the agreement in exchange for receiving assistance through the Initiative.

(2) A certification by the Secretary—

(A) that project review procedures for all projects under the Initiative have been established and are being implemented; and

(B) that those procedures will ensure that any scientific, technical, or commercial project initiated under the Initiative—

(i) will not enhance the military or weapons of mass destruction capabilities of Russia;

(ii) will not result in the inadvertent transfer or utilization of products or activities under such project for military purposes;

(iii) will be commercially viable within three years after the date of the initiation of the project; and

(iv) will be carried out in conjunction with an appropriate commercial, industrial, or other nonprofit entity as partner.

(3) A report setting forth the following:

(A) A description of the project review procedures process.

(B) A list of the projects under the Initiative that have been reviewed under such project review procedures.

(C) A description for each project listed under subparagraph (B) of the purpose, expected life-cycle costs, out-year

budget costs, participants, commercial viability, expected time for income generation, and number of Russian jobs created.

(f) PLAN FOR RESTRUCTURING THE RUSSIAN NUCLEAR COMPLEX.—(1) The President, acting through the Secretary of Energy, is urged to enter into discussions with the Russian Federation for purposes of the development by the Russian Federation of a plan to restructure the Russian nuclear complex in order to meet changes in the national security requirements of Russia by 2010.

(2) The plan under paragraph (1) should include the following:

(A) Mechanisms to consolidate the nuclear weapons production capacity in Russia to a capacity that is consistent with the obligations of Russia under current and future arms control agreements.

(B) Mechanisms to increase transparency regarding the restructuring of the Russian nuclear complex and weapons-surplus nuclear materials inventories in Russia to the levels of transparency for such matters in the United States, including the participation of Department of Energy officials with expertise in transparency of such matters.

(C) Measurable milestones that will permit the United States and the Russian Federation to monitor progress under the plan.

(g) ENCOURAGEMENT OF CAREERS IN NONPROLIFERATION.—(1) In carrying out actions under this section, the Secretary of Energy may carry out a program to encourage students in the United States and in the Russian Federation to pursue careers in areas relating to nonproliferation.

(2) Of the amounts made available under the Initiative for fiscal year 2001 in excess of $17,500,000, up to $2,000,000 shall be available for purposes of the program under paragraph (1).

(3) The Administrator for Nuclear Security shall notify the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives before any funds are expended pursuant to paragraph (2). Any such notification shall include—

(A) an identification of the amount to be expended under paragraph (2) during fiscal year 2001;

(B) the recipients of the funds; and

(C) specific information on the activities that will be conducted using those funds.

(h) DEFINITIONS.—In this section:

(1) The term "nuclear city" means any of the closed nuclear cities within the complex of the Russian Ministry of Atomic Energy as follows:

(A) Sarov (Arzamas–16).
(B) Zarechnyy (Penza–19).
(C) Novoural'sk (Sverdlovsk–44).
(D) Lesnoy (Sverdlovsk–45).
(E) Ozersk (Chelyabinsk–65).
(F) Snezhinsk (Chelyabinsk–70).
(G) Trechgornyy (Zlatoust–36).
(H) Seversk (Tomsk–7).
(I) Zheleznogorsk (Krasnoyarsk–26).

(J) Zelenogorsk (Krasnoyarsk–45).

(2) The term "Russian nuclear complex" means all of the nuclear cities.

(3) The term "serial production facilities" means the facilities in Russia that are located at the following cities:

(A) Avangard.

(B) Lesnoy (Sverdlovsk–45).

(C) Trechgornyy (Zlatoust–36).

(D) Zarechnyy (Penza–19).

SEC. 4305.[51] AUTHORITY TO CONDUCT PROGRAM RELATING TO FISSILE MATERIALS.

AUTHORITY.—The Secretary of Energy may conduct programs designed to improve the protection, control, and accountability of fissile materials in Russia.

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TITLE XLV—SAFEGUARDS AND SECURITY MATTERS[52]

Subtitle A—Safeguards and Security[52]

SEC. 4501.[53] PROHIBITION ON INTERNATIONAL INSPECTIONS OF DEPARTMENT OF ENERGY FACILITIES UNLESS PROTECTION OF RESTRICTED DATA IS CERTIFIED.

(a) PROHIBITION ON INSPECTIONS.—The[54] Secretary of Energy may not allow an inspection of a nuclear weapons facility by the International Atomic Energy Agency until the Secretary certifies to Congress that no restricted data will be revealed during such inspection.

(c)[55] RESTRICTED DATA DEFINED.—In this section, the term "restricted data" has the meaning provided by section 11 y. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)).

(b) EXTENSION OF NOTICE-AND-WAIT REQUIREMENT REGARDING PROPOSED COOPERATION AGREEMENTS.—Section 3155(b) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 3092) is amended by striking out "December 31, 1995" and inserting in lieu thereof "October 1, 1996".

SEC. 4502.[56] RESTRICTIONS ON ACCESS TO NATIONAL LABORATORIES BY FOREIGN VISITORS FROM SENSITIVE COUNTRIES.

(a) BACKGROUND REVIEW REQUIRED.—The Secretary of Energy may not admit to any facility of a national laboratory other than

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[51] 50 U.S.C. 2565; formerly at 22 U.S.C. 5952 note. Sec. 3141(f)(6) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1763) redesignated sec. 3131 of Public Law 104–106 as sec. 4305.

Previously, sec. 3152 of Public Law 107–314 (116 Stat. 2738) struck out subsec. designation "(a)" and struck out subsec. (b), which had required the Secretary of Energy to report to Congress semiannually on the obligation of funds under this section.

[52] Sec. 3141(h)(1) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1771) added title and subtitle heading.

[53] 50 U.S.C. 2651. Sec. 3141(h)(2) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1771) redesignated sec. 3154, previously at 42 U.S.C. 2164 note, as sec. 4501.

[54] Sec. 3141(h)(2)(D)(i) of Public Law 108–136 (117 Stat. 1771) struck out "(1) The" and inserted in lieu thereof "The".

[55] Sec. 3141(h)(2)(D)(ii) of Public Law 108–136 (117 Stat. 1771) struck out "(2) For purposes of paragraph (1)," and inserted in lieu thereof "(c) RESTRICTED DATA DEFINED.—In this section,", which resulted in subsec. (c) preceding subsec. (b).

[56] 50 U.S.C. 2652; formerly at 42 U.S.C. 7383c. Sec. 3141(h)(3) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1771) redesignated sec. 3146 of Public Law 106–65 as sec. 4502.

areas accessible to the general public any individual who is a citizen or agent of a nation that is named on the current sensitive countries list unless the Secretary first completes a background review with respect to that individual.

(b) MORATORIUM PENDING CERTIFICATION.—(1) During the period described in paragraph (2), the Secretary may not admit to any facility of a national laboratory other than areas accessible to the general public any individual who is a citizen or agent of a nation that is named on the current sensitive countries list.

(2) The period referred to in paragraph (1) is the period beginning on November 4, 1999,[57] and ending on the later of the following:

(A) January 3, 2000.[58]

(B) The date that is 45 days after the date on which the Secretary submits to Congress the certifications described in paragraph (3).

(3) The certifications referred to in paragraph (2) are one certification each by the Director of Counterintelligence of the Department of Energy, the Director of the Federal Bureau of Investigation, and the Director of Central Intelligence, of each of the following:

(A) That the foreign visitors program at that facility complies with applicable orders, regulations, and policies of the Department of Energy relating to the safeguarding and security of sensitive information and fulfills any counterintelligence requirements arising under such orders, regulations, and policies.

(B) That the foreign visitors program at that facility complies with Presidential Decision Directives and similar requirements relating to the safeguarding and security of sensitive information and fulfills any counterintelligence requirements arising under such Directives or requirements.

(C) That the foreign visitors program at that facility includes adequate protections against the inadvertent release of Restricted Data, information important to the national security of the United States, and any other sensitive information the disclosure of which might harm the interests of the United States.

(D) That the foreign visitors program at that facility does not pose an undue risk to the national security interests of the United States.

(c) WAIVER OF MORATORIUM.—(1) The Secretary of Energy may waive the prohibition in subsection (b) on a case-by-case basis with respect to any specific individual or any specific delegation of individuals whose admission to a national laboratory is determined by the Secretary to be in the interest of the national security of the United States.

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[57] Sec. 3141(h)(3)(D)(i)(I) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1771) struck out "30 days after the date of the enactment of this Act" and inserted "on November 4, 1999,".

[58] Sec. 3141(h)(3)(D)(i)(II) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1771) struck out "The date that is 90 days after the date of the enactment of this Act" and inserted in lieu thereof "January 3, 2000".

(2) Not later than the seventh day of the month following a month in which a waiver is made, the Secretary shall submit a report in writing providing notice of each waiver made in that month to the following:

(A) The Committee on Armed Services and the Select Committee on Intelligence of the Senate.

(B) The Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives.

(3) Each such report shall be in classified form and shall contain the identity of each individual or delegation for whom such a waiver was made and, with respect to each such individual or delegation, the following information:

(A) A detailed justification for the waiver.

(B) For each individual with respect to whom a background review was conducted, whether the background review determined that negative information exists with respect to that individual.

(C) The Secretary's certification that the admission of that individual or delegation to a national laboratory is in the interest of the national security of the United States.

(4) The authority of the Secretary under paragraph (1) may be delegated only to the Director of Counterintelligence of the Department of Energy.

(d) EXCEPTION TO MORATORIUM FOR CERTAIN INDIVIDUALS.—The moratorium under subsection (b) shall not apply to any person who—

(1) is, on October 5, 1999,[59] an employee or assignee of the Department of Energy, or of a contractor of the Department; and

(2) has undergone a background review in accordance with subsection (a).

(e) EXCEPTION TO MORATORIUM FOR CERTAIN PROGRAMS.—The moratorium under subsection (b) shall not apply—

(1) to activities relating to cooperative threat reduction with states of the former Soviet Union; or

(2) to the materials protection control and accounting program of the Department.

(f) SENSE OF CONGRESS REGARDING BACKGROUND REVIEWS.—It is the sense of Congress that the Secretary of Energy, the Director of the Federal Bureau of Investigation, and the Director of Central Intelligence should ensure that background reviews carried out under this section are completed in not more than 15 days.

(g) DEFINITIONS.—For purposes of this section:

(1) The term "background review", commonly known as an indices check, means a review of information provided by the Director of Central Intelligence and the Director of the Federal Bureau of Investigation regarding personal background, including information relating to any history of criminal activity or to any evidence of espionage.

[59] Sec. 3141(h)(3)(D)(ii) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1772) struck out "the date of the enactment of this Act," and inserted in lieu thereof "October 5, 1999,".

(2) The term "sensitive countries list" means the list prescribed by the Secretary of Energy known as the Department of Energy List of Sensitive Countries as in effect on January 1, 1999.

(3)[60] The term "national laboratory" means any of the following:

(4)[60] The term "Restricted Data" has the meaning given that term in section 11 y. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)).

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[60] Sec. 3141(h)(3)(D)(iii) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1772) added paras. (3) and (4).

g. Department of Defense Appropriations Act, 2003

Partial text of Public Law 107–248 [H.R. 5010], 116 Stat. 1519, approved October 23, 2002; as amended by Public Law 108–84 [H.J. Res. 69], 117 Stat. 1042, approved September 30, 2003; Public Law 108–104 [H.J. Res. 75], 117 Sat. 1200, approved October 31, 2002; Public Law 108–107 [H.J. Res. 76], 117 Stat. 1240, approved November 7, 2003; and by Public Law 108–135 [H.J. Res. 79], 117 Stat. 1391, approved November 22, 2003

AN ACT Making appropriations for the Department of Defense for the fiscal year ending September 30, 2003, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2003, for military functions administered by the Department of Defense, and for other purposes, namely:

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TITLE VIII

GENERAL PROVISIONS

* * * * * * *

SEC. 8073.[1] During the current fiscal year and hereafter, the Secretary of Defense may waive reimbursement of the cost of conferences, seminars, courses of instruction, or similar educational activities of the Asia-Pacific Center for Security Studies for military officers and civilian officials of foreign nations if the Secretary determines that attendance by such personnel, without reimbursement, is in the national security interest of the United States: *Provided,* That costs for which reimbursement is waived pursuant to this section shall be paid from appropriations available for the Asia-Pacific Center.

* * * * * * *

SEC. 8093.[2] During the current fiscal year and hereafter, under regulations prescribed by the Secretary of Defense, the Center of Excellence for Disaster Management and Humanitarian Assistance may also pay, or authorize payment for, the expenses of providing or facilitating education and training for appropriate military and civilian personnel of foreign countries in disaster management, peace operations, and humanitarian assistance.

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SEC. 8132.[3] The budget of the President for fiscal year 2004 submitted to the Congress pursuant to section 1105 of title 31, United

[1] 10 U.S.C. note prec. 2161.
[2] 10 U.S.C. 182 note.
[3] 10 U.S.C. 221 note.

States Code, and each annual budget request thereafter, shall include separate budget justification documents for costs of United States Armed Forces' participation in contingency operations for the Military Personnel accounts, the Overseas Contingency Operations Transfer Fund, the Operation and Maintenance accounts, and the Procurement accounts: *Provided,* That these budget justification documents shall include a description of the funding requested for each anticipated contingency operation, for each military service, to include active duty and Guard and Reserve components, and for each appropriation account: *Provided further,* That these documents shall include estimated costs for each element of expense or object class, a reconciliation of increases and decreases for ongoing contingency operations, and programmatic data including, but not limited to troop strength for each active duty and Guard and Reserve component, and estimates of the major weapons systems deployed in support of each contingency: *Provided further,* That these documents shall include budget exhibits OP–5 and OP–32, as defined in the Department of Defense Financial Management Regulation, for the Overseas Contingency Operations Transfer Fund for fiscal years 2002 and 2003.

* * * * * * *

SEC. 8144. (a) The conditions described in section 1305 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 22 U.S.C. 5952 note) shall not apply to the obligation and expenditure of funds for fiscal years 2000, 2001, 2002 and 2003 for the planning, design, or construction of a chemical weapons destruction facility in Russia if the President submits to Congress a written certification that includes—

(1) a statement as to why waiving the conditions is important to the national security interests of the United States;

(2) a full and complete justification for exercising this waiver; and

(3) a plan to promote a full and accurate disclosure by Russia regarding the size, content, status, and location of its chemical weapons stockpile.

(b) EXPIRATION OF AUTHORITY.—The authority under paragraph (a) shall expire on January 31, 2004.[4]

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This Act may be cited as the "Department of Defense Appropriations Act, 2003".

[4] Sec. 135 of Public Law 108–84 (117 Stat. 1048) struck out "September 30, 2003" and inserted in lieu thereof "October 31, 2003". Subsequently Sec. 3 of Public Law 108–104 (117 Sat. 1200) struck out "October 31, 2003" and inserted in lieu thereof "November 7, 2003". Sec. 2 of Public Law 108–107 (117 Stat. 1240) struck out "November 7, 2003" and inserted in lieu thereof "November 21, 2003". Sec. 2 of Public Law 108–135 (117 Stat. 1391) struck out "November 21, 2003" and inserted in lieu thereof "January 31, 2004".

h. National Defense Authorization Act for Fiscal Year 2002

Partial text of Public Law 107–107 [S. 1438], 115 Stat. 1012, approved December 28, 2001

AN ACT To authorize appropriations for fiscal year 2002 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Defense Authorization Act for Fiscal Year 2002".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into three divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

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

SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.

For purposes of this Act, the term "congressional defense committees" means—

(1) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

(2) the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

* * * * * * *

Subtitle A—Authorization of Appropriations

* * * * * * *

SEC. 106. CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE.

There is hereby authorized to be appropriated for fiscal year 2002 for the Department of Defense for Chemical Agents and Munitions Destruction, Defense, the amount of $1,153,557,000 for—

(1) the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521); and

(2) the destruction of chemical warfare materiel of the United States that is not covered by section 1412 of such Act.

* * * * * * *

TITLE III—OPERATION AND MAINTENANCE

* * * * * * *

Subtitle A—Authorization of Appropriations

SEC. 301. OPERATION AND MAINTENANCE FUNDING.

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal year 2002 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

* * * * * * *

(19) For Overseas Humanitarian, Disaster, and Civic Aid programs, $49,700,000.

(20) For Drug Interdiction and Counter-drug Activities, Defense-wide, $820,381,000.

* * * * * * *

(23) For Cooperative Threat Reduction programs, $403,000,000.

(24) For Overseas Contingency Operations Transfer Fund, $2,844,226,000.

* * * * * * *

(b) ADJUSTMENT.—The total amount authorized to be appropriated pursuant to paragraphs (1) through (5) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs, reduced by $125,000,000, which represents savings resulting from reduced energy costs.

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SEC. 306. DEFENSE LANGUAGE INSTITUTE FOREIGN LANGUAGE CENTER EXPANDED ARABIC LANGUAGE PROGRAM.

Of the amount authorized to be appropriated by section 301(a)(1) for operation and maintenance for the Army, $650,000 may be available for the Defense Language Institute Foreign Language Center for an expanded Arabic language program.

* * * * * * *

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

* * * * * * *

Subtitle A—Active Forces

SEC. 401.[1] END STRENGTHS FOR ACTIVE FORCES.

The Armed Forces are authorized strengths for active duty personnel as of September 30, 2002, as follows:

(1) The Army, 480,000.

(2) The Navy, 376,000.

(3) The Marine Corps, 172,600.

(4) The Air Force, 358,800.

SEC. 402. REVISION IN PERMANENT END STRENGTH MINIMUM LEVELS.

Section 691(b) of title 10, United States Code, is amended—* * *[2]

* * * * * * *

TITLE X—GENERAL PROVISIONS

* * * * * * *

Subtitle A—Financial Matters

* * * * * * *

SEC. 1004. UNITED STATES CONTRIBUTION TO NATO COMMON-FUNDED BUDGETS IN FISCAL YEAR 2002.

(a) FISCAL YEAR 2002 LIMITATION.—The total amount contributed by the Secretary of Defense in fiscal year 2002 for the common-funded budgets of NATO may be any amount up to, but not in excess of, the amount specified in subsection (b) (rather than the maximum amount that would otherwise be applicable to those contributions under the fiscal year 1998 baseline limitation).

(b) TOTAL AMOUNT.—The amount of the limitation applicable under subsection (a) is the sum of the following:

(1) The amounts of unexpended balances, as of the end of fiscal year 2001, of funds appropriated for fiscal years before fiscal year 2002 for payments for those budgets.

(2) The amount specified in subsection (c)(1).

(3) The amount specified in subsection (c)(2).

(4) The total amount of the contributions authorized to be made under section 2501.

(c) AUTHORIZED AMOUNTS.—Amounts authorized to be appropriated by titles II and III of this Act are available for contributions for the common-funded budgets of NATO as follows:

(1) Of the amount provided in section 201(1), $708,000 for the Civil Budget.

(2) Of the amount provided in section 301(a)(1), $175,849,000 for the Military Budget.

(d) DEFINITIONS.—For purposes of this section:

(1) COMMON-FUNDED BUDGETS OF NATO.—The term "common-funded budgets of NATO" means the Military Budget, the Security Investment Program, and the Civil Budget of the North Atlantic Treaty Organization (and any successor or additional account or program of NATO).

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[1] 10 U.S.C. 115 note.

[2] See 10 U.S.C. 691.

(2) FISCAL YEAR 1998 BASELINE LIMITATION.—The term "fiscal year 1998 baseline limitation" means the maximum annual amount of Department of Defense contributions for common-funded budgets of NATO that is set forth as the annual limitation in section 3(2)(C)(ii) of the resolution of the Senate giving the advice and consent of the Senate to the ratification of the Protocols to the North Atlantic Treaty of 1949 on the Accession of Poland, Hungary, and the Czech Republic (as defined in section 4(7) of that resolution), approved by the Senate on April 30, 1998.

SEC. 1005. LIMITATION ON FUNDS FOR BOSNIA AND KOSOVO PEACEKEEPING OPERATIONS FOR FISCAL YEAR 2002.

(a) LIMITATION.—Of the amounts authorized to be appropriated by section 301(a)(24) for the Overseas Contingency Operations Transfer Fund—

(1) no more than $1,315,600,000 may be obligated for incremental costs of the Armed Forces for Bosnia peacekeeping operations; and

(2) no more than $1,528,600,000 may be obligated for incremental costs of the Armed Forces for Kosovo peacekeeping operations.

(b) PRESIDENTIAL WAIVER.—The President may waive the limitation in subsection (a)(1), or the limitation in subsection (a)(2), after submitting to Congress the following:

(1) The President's written certification that the waiver is necessary in the national security interests of the United States.

(2) The President's written certification that exercising the waiver will not adversely affect the readiness of United States military forces.

(3) A report setting forth the following:

(A) The reasons that the waiver is necessary in the national security interests of the United States.

(B) The specific reasons that additional funding is required for the continued presence of United States military forces participating in, or supporting, Bosnia peacekeeping operations, or Kosovo peacekeeping operations, as the case may be, for fiscal year 2002.

(C) A discussion of the impact on the military readiness of United States Armed Forces of the continuing deployment of United States military forces participating in, or supporting, Bosnia peacekeeping operations, or Kosovo peacekeeping operations, as the case may be.

(4) A supplemental appropriations request for the Department of Defense for such amounts as are necessary for the additional fiscal year 2002 costs associated with United States military forces participating in, or supporting, Bosnia or Kosovo peacekeeping operations.

(c) PEACEKEEPING OPERATIONS DEFINED.—For the purposes of this section:

(1) The term "Bosnia peacekeeping operations" has the meaning given such term in section 1004(e) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2112).

(2) The term "Kosovo peacekeeping operations"—

(A) means the operation designated as Operation Joint Guardian and any other operation involving the participation of any of the Armed Forces in peacekeeping or peace enforcement activities in and around Kosovo; and

(B) includes, with respect to Operation Joint Guardian or any such other operation, each activity that is directly related to the support of the operation.

SEC. 1006. MAXIMUM AMOUNT FOR NATIONAL FOREIGN INTELLIGENCE PROGRAM.

The total amount authorized to be appropriated for the National Foreign Intelligence Program for fiscal year 2002 is the sum of the following:

(1) The total amount set forth for the National Foreign Intelligence Program for fiscal year 2002 in the message of the President to Congress transmitted by the President on June 27, 2001, and printed as House Document 107–92, captioned "Communication of the President of the United States Transmitting Requests for Fiscal Year 2002 Budget Amendments for the Department of Defense".

(2) The total amount, if any, appropriated for the National Foreign Intelligence Program for fiscal year 2002 pursuant to the 2001 Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States (Public Law 107–38; 115 Stat. 220–221).

(3) The total amount, if any, appropriated for the National Foreign Intelligence Program for fiscal year 2002 in any law making supplemental appropriations for fiscal year 2002 that is enacted during the second session of the 107th Congress.

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Subtitle B—Naval Vessels and Shipyards

SEC. 1011. AUTHORITY TO TRANSFER NAVAL VESSELS TO CERTAIN FOREIGN COUNTRIES.

(a) TRANSFERS BY GRANT.—The President is authorized to transfer vessels to foreign countries on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) as follows:

(1) POLAND.—To the Government of Poland, the OLIVER HAZARD PERRY class guided missile frigate WADSWORTH (FFG 9).

(2) TURKEY.—To the Government of Turkey, the KNOX class frigates CAPODANNO (FF 1093), THOMAS C. HART (FF 1092), DONALD B. BEARY (FF 1085), McCANDLESS (FF 1084), REASONER (FF 1063), and BOWEN (FF 1079).

(b) TRANSFERS BY SALE.—The President is authorized to transfer vessels to foreign governments and foreign governmental entities on a sale basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761) as follows:

(1) TAIWAN.—To the Taipei Economic and Cultural Representative Office in the United States (which is the Taiwan instrumentality designated pursuant to section 10(a) of the

Taiwan Relations Act), the KIDD class guided missile destroyers KIDD (DDG 993), CALLAGHAN (DDG 994), SCOTT (DDG 995), and CHANDLER (DDG 996).

(2) TURKEY.—To the Government of Turkey, the OLIVER HAZARD PERRY class guided missile frigates ESTOCIN (FFG 15) and SAMUEL ELIOT MORISON (FFG 13).

(c) GRANTS NOT COUNTED IN ANNUAL TOTAL OF TRANSFERRED EXCESS DEFENSE ARTICLES.—The value of a vessel transferred to another country on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) pursuant to authority provided by subsection (a) shall not be counted for the purposes of subsection (g) of that section in the aggregate value of excess defense articles transferred to countries under that section in any fiscal year.

(d) COSTS OF TRANSFERS ON GRANT BASIS.—Any expense incurred by the United States in connection with a transfer authorized by this section shall be charged to the recipient (notwithstanding section 516(e)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(e)(1))) in the case of a transfer authorized to be made on a grant basis under subsection (a).

(e) WAIVER AUTHORITY.—For a vessel transferred on a grant basis pursuant to authority provided by subsection (a)(2), the President may waive reimbursement of charges for the lease of that vessel under section 61(a) of the Arms Export Control Act (22 U.S.C. 2796(a)) for a period of one year before the date of the transfer of that vessel.

(f) REPAIR AND REFURBISHMENT IN UNITED STATES SHIPYARDS.—To the maximum extent practicable, the President shall require, as a condition of the transfer of a vessel under this section, that the country to which the vessel is transferred have such repair or refurbishment of the vessel as is needed, before the vessel joins the naval forces of that country, performed at a shipyard located in the United States, including a United States Navy shipyard.

(g) EXPIRATION OF AUTHORITY.—The authority to transfer a vessel under this section shall expire at the end of the two-year period beginning on the date of the enactment of this Act.

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Subtitle C—Counter-Drug Activities

SEC. 1021. EXTENSION AND RESTATEMENT OF AUTHORITY TO PROVIDE DEPARTMENT OF DEFENSE SUPPORT FOR COUNTER-DRUG ACTIVITIES OF OTHER GOVERNMENTAL AGENCIES.

Section 1004 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 374 note) is amended to read as follows: * * *

SEC. 1022. EXTENSION OF REPORTING REQUIREMENT REGARDING DEPARTMENT OF DEFENSE EXPENDITURES TO SUPPORT FOREIGN COUNTER-DRUG ACTIVITIES.

Section 1022 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–255) is amended—* * *

* * * * * * *

TITLE XII—MATTERS RELATING TO OTHER NATIONS

Subtitle A—Matters Related to Arms Control and Monitoring

Sec. 1201. Clarification of authority to furnish nuclear test monitoring equipment to foreign governments.
Sec. 1202. Limitation on funding for Joint Data Exchange Center in Moscow.
Sec. 1203. Support of United Nations-sponsored efforts to inspect and monitor Iraqi weapons activities.
Sec. 1204. Authority for employees of Federal Government contractors to accompany chemical weapons inspection teams at Government-owned facilities.
Sec. 1205. Plan for securing nuclear weapons, material, and expertise of the states of the former Soviet Union.

Subtitle B—Matters Relating to Allies and Friendly Foreign Nations

Sec. 1211. Acquisition of logistical support for security forces.
Sec. 1212. Extension of authority for international cooperative research and development projects.
Sec. 1213. Cooperative agreements with foreign countries and international organizations for reciprocal use of test facilities.
Sec. 1214. Sense of Congress on allied defense burdensharing.

Subtitle C—Reports

Sec. 1221. Report on significant sales and transfers of military hardware, expertise, and technology to the People's Republic of China.
Sec. 1222. Repeal of requirement for reporting to Congress on military deployments to Haiti.
Sec. 1223. Report by Comptroller General on provision of defense articles, services, and military education and training to foreign countries and international organizations.

Subtitle A—Matters Related to Arms Control and Monitoring[3]

* * * * * * *

Subtitle B—Matters Relating to Allies and Friendly Foreign Nations

SEC. 1211. ACQUISITION OF LOGISTICAL SUPPORT FOR SECURITY FORCES.

Section 5 of the Multinational Force and Observers Participation Resolution (22 U.S.C. 3424) is amended by adding at the end the following new subsection: * * *[4]

SEC. 1212. EXTENSION OF AUTHORITY FOR INTERNATIONAL COOPERATIVE RESEARCH AND DEVELOPMENT PROJECTS.

(a) ELIGIBILITY OF FRIENDLY FOREIGN COUNTRIES.—Section 2350a of title 10, United States Code, is amended—* * *

SEC. 1213. COOPERATIVE AGREEMENTS WITH FOREIGN COUNTRIES AND INTERNATIONAL ORGANIZATIONS FOR RECIPROCAL USE OF TEST FACILITIES.

(a) AUTHORITY.—Subchapter II of chapter 138 of title 10, United States Code, is amended by adding at the end the following new section:

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[3] For text, see *Legislation on Foreign Relations Through 2004*, vol. II, sec. F.
[4] For amended text, see *Legislation on Foreign Relations Through 2004*, vol. II, sec. G.

"§ 2350l. Cooperative agreements for reciprocal use of test facilities: foreign countries and international organizations * * *

SEC. 1214. SENSE OF CONGRESS ON ALLIED DEFENSE BURDEN-SHARING.

It is the sense of Congress that—

(1) the efforts of the President to increase defense burdensharing by allied and friendly nations deserve strong support; and

(2) host nation support agreements with those nations in which United States military personnel are assigned to permanent duty ashore should be negotiated consistent with section 1221(a)(1) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 50 U.S.C. 1541(a)(1)), which sets forth a goal of obtaining from any such host nation financial contributions that amount to 75 percent of the nonpersonnel costs incurred by the United States Government for stationing United States military personnel in that nation.

Subtitle C—Reports

SEC. 1221. REPORT ON SIGNIFICANT SALES AND TRANSFERS OF MILITARY HARDWARE, EXPERTISE, AND TECHNOLOGY TO THE PEOPLE'S REPUBLIC OF CHINA.

Section 1202 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 781; 10 U.S.C. 113 note) is amended by adding at the end the following new subsection: * * *

SEC. 1222. REPEAL OF REQUIREMENT FOR REPORTING TO CONGRESS ON MILITARY DEPLOYMENTS TO HAITI.

Section 1232(b) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 788; 50 U.S.C. 1541 note) is repealed.

SEC. 1223. REPORT BY COMPTROLLER GENERAL ON PROVISION OF DEFENSE ARTICLES, SERVICES, AND MILITARY EDUCATION AND TRAINING TO FOREIGN COUNTRIES AND INTERNATIONAL ORGANIZATIONS.

(a) STUDY.—The Comptroller General shall conduct a study of the following:

(1) The benefits derived by each foreign country or international organization from the receipt of defense articles, defense services, or military education and training provided after December 31, 1989, pursuant to the drawdown of such articles, services, or education and training from the stocks of the Department of Defense under section 506, 516, or 552 of the Foreign Assistance Act of 1961 (22 U.S.C. 2318, 2321j, or 2348a) or any other provision of law.

(2) Any benefits derived by the United States from the provision of defense articles, defense services, and military education and training described in paragraph (1).

(3) The effect on the readiness of the Armed Forces as a result of the provision by the United States of defense articles, defense services, and military education and training described in paragraph (1).

(4) The cost to the Department of Defense with respect to the provision of defense articles, defense services, and military education and training described in paragraph (1).

(b) REPORTS.—(1) Not later than April 15, 2002, the Comptroller General shall submit to Congress an interim report containing the results to that date of the study conducted under subsection (a).

(2) Not later than August 1, 2002, the Comptroller General shall submit to Congress a final report containing the results of the study conducted under subsection (a).

TITLE XIII—COOPERATIVE THREAT REDUCTION WITH STATES OF THE FORMER SOVIET UNION[5]

* * * * * * *

[5] For text, see *Legislation on Foreign Relations Through 2004*, vol. II, sec. F.

i. Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001

Partial text of Public Law 106–398 [H.R. 4205], 114 Stat. 1654, approved October 30, 2000; amended by Public Law 107–67 [Treasury and General Government Appropriations Act, 2002; H.R. 2590], 115 Stat. 514, approved November 12, 2001; Public Law 107–107 [National Defense Authorization Act for Fiscal Year 2002; S. 1438], 115 Stat. 1012, approved December 28, 2001; Public Law 107–314 [Bob Stump National Defense Authorization Act for Fiscal Year 2003; H.R. 4546], 116 Stat. 2458, approved December 2, 2002; Public Law 108–7 [Consolidated Appropriations Resolution, 2003; H.J. Res. 2], 117 Stat. 11, approved February 20, 2003; Public Law 108–136 [National Defense Authorization Act for Fiscal Year 2004; H.R. 1588], 117 Stat. 1392, approved November 24, 2003

AN ACT To authorize appropriations for fiscal year 2001 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

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

SECTION 1. ENACTMENT OF FISCAL YEAR 2001 NATIONAL DEFENSE AUTHORIZATION ACT.

The provisions of H.R. 5408 of the 106th Congress, as introduced on October 6, 2000, are hereby enacted into law.

SEC. 2. PUBLICATION OF ACT.

In publishing this Act in slip form and in the United States Statutes at Large pursuant to section 112 of title 1, United States Code, the Archivist of the United States shall include after the date of approval an appendix setting forth the text of the bill referred to in section 1.

APPENDIX—H.R. 5408

A bill to authorize appropriations for fiscal year 2001 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

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

SECTION 1. SHORT TITLE; FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the "Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001".

(b) FINDINGS.—* * *

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into three divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

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

SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.

For purposes of this Act, the term "congressional defense committees" means—

(1) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

(2) the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.

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Subtitle A—Authorization of Appropriations

* * * * * * *

Subtitle B—Program Requirements, Restrictions, and Limitations

* * * * * * *

SEC. 216. LIMITATION ON RUSSIAN AMERICAN OBSERVATION SATELLITES PROGRAM.

None of the funds authorized to be appropriated under section 201(4) for the Russian American Observation Satellites program may be obligated or expended until 30 days after the Secretary of Defense submits to Congress a report explaining how the Secretary plans to protect United States advanced military technology that may be associated with the Russian American Observation Satellites program.

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Subtitle C—Ballistic Missile Defense

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SEC. 232. REPORTS ON BALLISTIC MISSILE THREAT POSED BY NORTH KOREA.

(a) REPORT ON BALLISTIC MISSILE THREAT.—Not later than two weeks after the next flight test by North Korea of a long-range ballistic missile, the President shall submit to Congress, in classified and unclassified form, a report on the North Korean ballistic missile threat to the United States. The report shall include the following:

(1) An assessment of the current North Korean missile threat to the United States.

(2) An assessment of whether the United States is capable of defeating the North Korean long-range missile threat to the United States as of the date of the report.

(3) An assessment of when the United States will be capable of defeating the North Korean missile threat to the United States.

(4) An assessment of the potential for proliferation of North Korean missile technologies to other states and whether such

proliferation will accelerate the development of additional long-range ballistic missile threats to the United States.

(b) REPORT ON REDUCING VULNERABILITY.—Not later than two weeks after the next flight test by North Korea of a long-range ballistic missile, the President shall submit to Congress a report providing the following:

(1) Any additional steps the President intends to take to reduce the period of time during which the Nation is vulnerable to the North Korean long-range ballistic missile threat.

(2) The technical and programmatic viability of testing any other missile defense systems against targets with flight characteristics similar to the North Korean long-range missile threat, and plans to do so if such tests are considered to be a viable alternative.

(c) DEFINITION.—For purposes of this section, the term "United States", when used in a geographic sense, means the 50 States, the District of Columbia, and any Commonwealth, territory, or possession of the United States.

* * * * * * *

TITLE III—OPERATION AND MAINTENANCE

* * * * * * *

Subtitle A—Authorization of Appropriations

SEC. 301. OPERATION AND MAINTENANCE FUNDING.

Funds are hereby authorized to be appropriated for fiscal year 2001 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

* * * * * * *

(19) For Overseas Humanitarian, Disaster, and Civic Aid programs, $55,900,000.

(20) For Drug Interdiction and Counter-drug Activities, Defense-wide, $869,000,000.

* * * * * * *

(23) For Cooperative Threat Reduction programs, $443,400,000.

(24) For Overseas Contingency Operations Transfer Fund, $4,100,577,000.

* * * * * * *

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

* * * * * * *

Subtitle A—Active Forces

SEC. 401. END STRENGTHS FOR ACTIVE FORCES.

The Armed Forces are authorized strengths for active duty personnel as of September 30, 2001, as follows:

(1) The Army, 480,000.

(2) The Navy, 372,642.

(3) The Marine Corps, 172,600.
(4) The Air Force, 357,000.

SEC. 402. REVISION IN PERMANENT END STRENGTH MINIMUM LEVELS.

(a) REVISED END STRENGTH FLOORS.—Section 691(b) of title 10, United States Code, is amended—* * *

* * * * * * *

TITLE X—GENERAL PROVISIONS

* * * * * * *

Subtitle A—Financial Matters

* * * * * * *

SEC. 1004. UNITED STATES CONTRIBUTION TO NATO COMMON-FUNDED BUDGETS IN FISCAL YEAR 2001.

(a) FISCAL YEAR 2001 LIMITATION.—The total amount contributed by the Secretary of Defense in fiscal year 2001 for the common-funded budgets of NATO may be any amount up to, but not in excess of, the amount specified in subsection (b) (rather than the maximum amount that would otherwise be applicable to those contributions under the fiscal year 1998 baseline limitation).

(b) TOTAL AMOUNT.—The amount of the limitation applicable under subsection (a) is the sum of the following:

(1) The amounts of unexpended balances, as of the end of fiscal year 2000, of funds appropriated for fiscal years before fiscal year 2001 for payments for those budgets.

(2) The amount specified in subsection (c)(1).

(3) The amount specified in subsection (c)(2).

(4) The total amount of the contributions authorized to be made under section 2501.

(c) AUTHORIZED AMOUNTS.—Amounts authorized to be appropriated by titles II and III of this Act are available for contributions for the common-funded budgets of NATO as follows:

(1) Of the amount provided in section 201(1), $743,000 for the Civil Budget.

(2) Of the amount provided in section 301(1), $181,981,000 for the Military Budget.

(d) DEFINITIONS.—For purposes of this section:

(1) COMMON-FUNDED BUDGETS OF NATO.—The term "common-funded budgets of NATO" means the Military Budget, the Security Investment Program, and the Civil Budget of the North Atlantic Treaty Organization (and any successor or additional account or program of NATO).

(2) FISCAL YEAR 1998 BASELINE LIMITATION.—The term "fiscal year 1998 baseline limitation" means the maximum annual amount of Department of Defense contributions for common-funded budgets of NATO that is set forth as the annual limitation in section 3(2)(C)(ii) of the resolution of the Senate giving the advice and consent of the Senate to the ratification of the Protocols to the North Atlantic Treaty of 1949 on the Accession

of Poland, Hungary, and the Czech Republic (as defined in section 4(7) of that resolution), approved by the Senate on April 30, 1998.

SEC. 1005. LIMITATION ON FUNDS FOR BOSNIA AND KOSOVO PEACEKEEPING OPERATIONS FOR FISCAL YEAR 2001.

(a) LIMITATION.—Of the amounts authorized to be appropriated by section 301(24) for the Overseas Contingency Operations Transfer Fund—

(1) no more than $1,387,800,000 may be obligated for incremental costs of the Armed Forces for Bosnia peacekeeping operations; and

(2) no more than $1,650,400,000 may be obligated for incremental costs of the Armed Forces for Kosovo peacekeeping operations.

(b) PRESIDENTIAL WAIVER.—The President may waive the limitation in subsection (a)(1), or the limitation in subsection (a)(2), after submitting to Congress the following:

(1) The President's written certification that the waiver is necessary in the national security interests of the United States.

(2) The President's written certification that exercising the waiver will not adversely affect the readiness of United States military forces.

(3) A report setting forth the following:

(A) The reasons that the waiver is necessary in the national security interests of the United States.

(B) The specific reasons that additional funding is required for the continued presence of United States military forces participating in, or supporting, Bosnia peacekeeping operations, or Kosovo peacekeeping operations, as the case may be, for fiscal year 2001.

(C) A discussion of the impact on the military readiness of United States Armed Forces of the continuing deployment of United States military forces participating in, or supporting, Bosnia peacekeeping operations, or Kosovo peacekeeping operations, as the case may be.

(4) A supplemental appropriations request for the Department of Defense for such amounts as are necessary for the additional fiscal year 2001 costs associated with United States military forces participating in, or supporting, Bosnia or Kosovo peacekeeping operations.

(c) PEACEKEEPING OPERATIONS DEFINED.—For the purposes of this section:

(1) The term "Bosnia peacekeeping operations" has the meaning given such term in section 1004(e) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2112).

(2) The term "Kosovo peacekeeping operations"—

(A) means the operation designated as Operation Joint Guardian and any other operation involving the participation of any of the Armed Forces in peacekeeping or peace enforcement activities in and around Kosovo; and

(B) includes, with respect to Operation Joint Guardian or any such other operation, each activity that is directly related to the support of the operation.

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Subtitle B—Naval Vessels and Shipyards

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SEC. 1013. AUTHORITY TO TRANSFER NAVAL VESSELS TO CERTAIN FOREIGN COUNTRIES.

(a) TRANSFERS BY GRANT.—The President is authorized to transfer vessels to foreign countries on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) as follows:

(1) BRAZIL.—To the Government of Brazil—

(A) the THOMASTON class dock landing ships ALAMO (LSD 33) and HERMITAGE (LSD 34); and

(B) the GARCIA class frigates BRADLEY (FF 1041), DAVIDSON (FF 1045), SAMPLE (FF 1048) and ALBERT DAVID (FF 1050).

(2) GREECE.—To the Government of Greece, the KNOX class frigates VREELAND (FF 1068) and TRIPPE (FF 1075).

(b) TRANSFERS ON A COMBINED LEASE-SALE BASIS.—(1) The President is authorized to transfer vessels to foreign countries on a combined lease-sale basis under sections 61 and 21 of the Arms Export Control Act (22 U.S.C. 2796 and 2761) and in accordance with subsection (c) as follows:

(A) CHILE.—To the Government of Chile, the OLIVER HAZARD PERRY class guided missile frigates WADSWORTH (FFG 9), and ESTOCIN (FFG 15).

(B) TURKEY.—To the Government of Turkey, the OLIVER HAZARD PERRY class guided missile frigates JOHN A. MOORE (FFG 19) and FLATLEY (FFG 21).

(2) The authority provided under paragraph (1)(B) is in addition to the authority provided under section 1018(a)(9) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 745) for the transfer of those vessels to the Government of Turkey on a sale basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761).

(c) CONDITIONS RELATING TO COMBINED LEASE-SALE TRANSFERS.—A transfer of a vessel on a combined lease-sale basis authorized by subsection (b) shall be made in accordance with the following requirements:

(1) The President may initially transfer the vessel by lease, with lease payments suspended for the term of the lease, if the country entering into the lease for the vessel simultaneously enters into a foreign military sales agreement for the transfer of title to the vessel.

(2) The President may not deliver to the purchasing country title to the vessel until the purchase price of the vessel under such a foreign military sales agreement is paid in full.

(3) Upon payment of the purchase price in full under such a sales agreement and delivery of title to the recipient country, the President shall terminate the lease.

(4) If the purchasing country fails to make full payment of the purchase price in accordance with the sales agreement by the date required under the sales agreement—

(A) the sales agreement shall be immediately terminated;

(B) the suspension of lease payments under the lease shall be vacated; and

(C) the United States shall be entitled to retain all funds received on or before the date of the termination under the sales agreement, up to the amount of the lease payments due and payable under the lease and all other costs required by the lease to be paid to that date.

(5) If a sales agreement is terminated pursuant to paragraph (4), the United States shall not be required to pay any interest to the recipient country on any amount paid to the United States by the recipient country under the sales agreement and not retained by the United States under the lease.

(d) AUTHORIZATION OF APPROPRIATIONS FOR COSTS OF LEASE-SALE TRANSFERS.—There is hereby authorized to be appropriated into the Defense Vessels Transfer Program Account such sums as may be necessary for paying the costs (as defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661a)) of the lease-sale transfers authorized by subsection (b). Amounts so appropriated shall be available only for the purpose of paying those costs.

(e) GRANTS NOT COUNTED IN ANNUAL TOTAL OF TRANSFERRED EXCESS DEFENSE ARTICLES.—The value of a vessel transferred to another country on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) pursuant to authority provided by subsection (a) shall not be counted for the purposes of subsection (g) of that section in the aggregate value of excess defense articles transferred to countries under that section in any fiscal year.

(f) COSTS OF TRANSFERS.—Any expense incurred by the United States in connection with a transfer authorized by this section shall be charged to the recipient (notwithstanding section 516(e)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(e)(1))) in the case of a transfer authorized to be made on a grant basis under subsection (a)).

(g) REPAIR AND REFURBISHMENT IN UNITED STATES SHIPYARDS.—To the maximum extent practicable, the President shall require, as a condition of the transfer of a vessel under this section, that the country to which the vessel is transferred have such repair or refurbishment of the vessel as is needed, before the vessel joins the naval forces of that country, performed at a shipyard located in the United States, including a United States Navy shipyard.

(h) EXPIRATION OF AUTHORITY.—The authority to transfer a vessel under this section shall expire at the end of the two-year period beginning on the date of the enactment of this Act.

(i)[1] COORDINATION OF PROVISIONS.—(1) If the Security Assistance Act of 2000 is enacted before this Act, the provisions of this section shall not take effect.

(2) If the Security Assistance Act of 2000 is enacted after this Act, this section shall cease to be in effect upon the enactment of that Act.

SEC. 1014. AUTHORITY TO CONSENT TO RETRANSFER OF ALTERNATIVE FORMER NAVAL VESSEL BY GOVERNMENT OF GREECE.

(a) AUTHORITY FOR RETRANSFER OF ALTERNATIVE VESSEL.—Section 1012 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 740) is amended—

(1) in subsection (a), by inserting after "HS Rodos (ex-USS BOWMAN COUNTY (LST 391))" the following: ", LST 325, or any other former United States LST previously transferred to the Government of Greece that is excess to the needs of that government"; and

(2) in subsection (b)(1), by inserting "retransferred under subsection (a)" after "the vessel".

(b) REPEAL.—Section 1305 of the Arms Control, Nonproliferation, and Security Assistance Act of 1999 (113 Stat. 1501A–511) is repealed.

Subtitle C—Counter-Drug Activities

SEC. 1021. EXTENSION OF AUTHORITY TO PROVIDE SUPPORT FOR COUNTER-DRUG ACTIVITIES OF COLOMBIA.

(a) EXTENSION OF AUTHORITY.—Section 1033 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1881) is amended—* * *[2]

SEC. 1022. REPORT ON DEPARTMENT OF DEFENSE EXPENDITURES TO SUPPORT FOREIGN COUNTER-DRUG ACTIVITIES.

Not later than January 1, 2001, and April 15, 2002,[3] the Secretary of Defense shall submit to the congressional defense committees a report detailing the expenditure of funds by the Secretary during the preceding fiscal year[4] in direct or indirect support of the counter-drug activities of foreign governments. The report shall include the following for each foreign government:

(1) The total amount of assistance provided to, or expended on behalf of, the foreign government.

(2) A description of the types of counter-drug activities conducted using the assistance.

(3) An explanation of the legal authority under which the assistance was provided.

SEC. 1023. RECOMMENDATIONS ON EXPANSION OF SUPPORT FOR COUNTER-DRUG ACTIVITIES.

(a) REQUIREMENT FOR SUBMITTAL OF RECOMMENDATIONS.—Not later than February 1, 2001, the Secretary of Defense shall submit

[1] The Security Assistance Act of 2000 was signed into law on October 6, 2000, as Public Law 106–280. For text, see page 412.

[2] For amended text, see page 930.

[3] Sec. 1022(1) of Public Law 107–107 (115 Stat. 1215) inserted "and April 15, 2002," after "January 1, 2001,".

[4] Sec. 1022(2) of Public Law 107–107 (115 Stat. 1215) struck out "fiscal year 2000" and inserted in lieu thereof "the preceding fiscal year".

to the Committees on Armed Services of the Senate and the House of Representatives the recommendations of the Secretary regarding whether expanded support for counter-drug activities should be authorized under section 1033 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1881) for the region that includes the countries that are covered by that authority on the date of the enactment of this Act.

(b) CONTENT OF SUBMISSION.—The submission under subsection (a) shall include the following:

(1) What, if any, additional countries should be covered.

(2) What, if any, additional support should be provided to covered countries, together with the reasons for recommending the additional support.

(3) For each country recommended under paragraph (1), a plan for providing support, including the counter-drug activities proposed to be supported.

SEC. 1024. REVIEW OF RIVERINE COUNTER-DRUG PROGRAM.

(a) REQUIREMENT FOR REVIEW.—The Secretary of Defense shall review the riverine counter-drug program supported under section 1033 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1881).

(b) REPORT.—Not later than February 1, 2001, the Secretary shall submit a report on the riverine counter-drug program to the Committees on Armed Services of the Senate and the House of Representatives. The report shall include, for each country receiving support under the riverine counter-drug program, the following:

(1) The Assistant Secretary's assessment of the effectiveness of the program.

(2) A recommendation regarding which of the Armed Forces, units of the Armed Forces, or other organizations within the Department of Defense should be responsible for managing the program.

(c) DELEGATION OF AUTHORITY.—The Secretary shall require the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict to carry out the responsibilities under this section.

* * * * * * *

SEC. 1026. SENSE OF CONGRESS REGARDING USE OF ARMED FORCES FOR COUNTER-DRUG AND COUNTER-TERRORISM ACTIVITIES.

It is the sense of Congress that the President should be able to use members of the Army, Navy, Air Force, and Marine Corps to assist law enforcement agencies, to the full extent consistent with section 1385 of title 18, United States Code (commonly known as the Posse Comitatus Act), section 375 of title 10, United States Code, and other applicable law, in preventing the entry into the United States of terrorists and drug traffickers, weapons of mass destruction, components of weapons of mass destruction, and prohibited narcotics and drugs.

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TITLE XII—MATTERS RELATING TO OTHER NATIONS

Subtitle A—Matters Related to Arms Control

Sec. 1201. Support of United Nations-sponsored efforts to inspect and monitor Iraqi weapons activities.
Sec. 1202. Support of consultations on Arab and Israeli arms control and regional security issues.
Sec. 1203. Furnishing of nuclear test monitoring equipment to foreign governments.
Sec. 1204. Additional matters for annual report on transfers of militarily sensitive technology to countries and entities of concern.

Subtitle B—Matters Relating to the Balkans

Sec. 1211. Annual report assessing effect of continued operations in the Balkans region on readiness to execute the national military strategy.
Sec. 1212. Situation in the Balkans.
Sec. 1213. Semiannual report on Kosovo peacekeeping.

Subtitle C—North Atlantic Treaty Organization and United States Forces in Europe

Sec. 1221. NATO fair burdensharing.
Sec. 1222. Repeal of restriction preventing cooperative airlift support through acquisition and cross-servicing agreements.
Sec. 1223. GAO study on the benefits and costs of United States military engagement in Europe.

Subtitle D—Other Matters

Sec. 1231. Joint data exchange center with Russian Federation on early warning systems and notification of ballistic missile launches.
Sec. 1232. Report on sharing and exchange of ballistic missile launch early warning data.
Sec. 1233. Annual report of Communist Chinese military companies operating in the United States.
Sec. 1234. Adjustment of composite theoretical performance levels of high performance computers.
Sec. 1235. Increased authority to provide health care services as humanitarian and civic assistance.
Sec. 1236. Sense of Congress regarding the use of children as soldiers.
Sec. 1237. Sense of Congress regarding undersea rescue and recovery.
Sec. 1238. United States-China Security Review Commission.[5]

Subtitle A—Matters Related to Arms Control

SEC. 1201. SUPPORT OF UNITED NATIONS-SPONSORED EFFORTS TO INSPECT AND MONITOR IRAQI WEAPONS ACTIVITIES.

(a) LIMITATION ON AMOUNT OF ASSISTANCE IN FISCAL YEAR 2001.—The total amount of the assistance for fiscal year 2001 that is provided by the Secretary of Defense under section 1505 of the Weapons of Mass Destruction Control Act of 1992 (22 U.S.C. 5859a) as activities of the Department of Defense in support of activities under that Act may not exceed $15,000,000.

(b) EXTENSION OF AUTHORITY TO PROVIDE ASSISTANCE.—Subsection (f) of section 1505 of the Weapons of Mass Destruction Control Act of 1992 (22 U.S.C. 5859a) is amended by striking "2000" and inserting "2001".

[5] Sec. 1 of the United States-China Economic and Security Review Commission (division P of Public Law 108–7; 117 Stat. 552) amended sec. 1238, including the section heading, but did not amend the table of contents preceding title XII. See also the freestanding secs. of that Act, beginning at page 324.

SEC. 1202. SUPPORT OF CONSULTATIONS ON ARAB AND ISRAELI ARMS CONTROL AND REGIONAL SECURITY ISSUES.

Of the amount authorized to be appropriated by section 301(5), up to $1,000,000 is available for the support of programs to promote formal and informal region-wide consultations among Arab, Israeli, and United States officials and experts on arms control and security issues concerning the Middle East region.

SEC. 1203. FURNISHING OF NUCLEAR TEST MONITORING EQUIPMENT TO FOREIGN GOVERNMENTS.

(a) IN GENERAL.—Chapter 152 of title 10, United States Code, is amended by adding at the end the following new section: * * *[6]

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item: * * *

SEC. 1204. ADDITIONAL MATTERS FOR ANNUAL REPORT ON TRANSFERS OF MILITARILY SENSITIVE TECHNOLOGY TO COUNTRIES AND ENTITIES OF CONCERN.

Section 1402(b) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 798) is amended by adding at the end the following new paragraph:

> "(4) The status of the implementation or other disposition of recommendations included in reports of audits by Inspectors General that have been set forth in a previous annual report under this section pursuant to paragraph (3).".

Subtitle B—Matters Relating to the Balkans

SEC. 1211. ANNUAL REPORT ASSESSING EFFECT OF CONTINUED OPERATIONS IN THE BALKANS REGION ON READINESS TO EXECUTE THE NATIONAL MILITARY STRATEGY.

Section 1035 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 753) is amended—* * *[7]

SEC. 1212. SITUATION IN THE BALKANS.

(a) ESTABLISHMENT OF NATO BENCHMARKS FOR WITHDRAWAL OF FORCES FROM KOSOVO.—The President shall develop, not later than May 31, 2001, militarily significant benchmarks for conditions that would achieve a sustainable peace in Kosovo and ultimately allow for the withdrawal of the United States military presence in Kosovo. Congress urges the President to seek concurrence among member nations of the North Atlantic Treaty Organization in the development of those benchmarks.

(b) COMPREHENSIVE POLITICAL-MILITARY STRATEGY.—(1) The President—

> (A) shall develop a comprehensive political-military strategy for addressing the political, economic, humanitarian, and military issues in the Balkans; and
>
> (B) shall establish near-term, mid-term, and long-term objectives in the region.

(2) In developing that strategy and those objectives, the President shall take into consideration—

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[6] Sec. 1203(a) added a new sec. 2555 (now at 2565) to title 10 United States Code, relating to furnishing nuclear test monitoring equipment to foreign governments. For text, see page 681.

[7] For amended text, see page 861.

(A) the benchmarks relating to Kosovo developed as described in subsection (a); and

(B) the benchmarks relating to Bosnia that were detailed in the report accompanying the certification by the President to Congress on March 3, 1998 (printed as House Document 105–223), with respect to the continued presence of United States Armed Forces, after June 30, 1998, in Bosnia and Herzegovina, submitted to Congress pursuant to section 7 of title I of the 1998 Supplemental Appropriations and Rescissions Act (Public Law 105–174; 112 Stat. 63).

(3) That strategy and those objectives shall be developed in consultation with appropriate regional and international entities.

(c) SEMIANNUAL REPORT ON BENCHMARKS.—Not later than June 30, 2001, and every six months thereafter, the President shall submit to Congress a report on the progress made in achieving the benchmarks developed pursuant to subsection (a). The President may submit a single report covering these benchmarks and the benchmarks relating to Bosnia referred to in subsection (b)(2)(B).

(d) SEMIANNUAL REPORT ON COMPREHENSIVE STRATEGY.—Not later than June 30, 2001, and every six months thereafter so long as United States forces are in the Balkans, the President shall submit to Congress a report on the progress being made in developing and implementing a comprehensive political-military strategy as described in subsection (b)(1)(A).

SEC. 1213. SEMIANNUAL REPORT ON KOSOVO PEACEKEEPING.

(a) REQUIREMENT FOR PERIODIC REPORT.—The President shall submit to the specified congressional committees a semiannual report on the contributions of European nations and organizations to the peacekeeping operations in Kosovo. The first such report shall be submitted not later than December 1, 2000.

(b) CONTENT OF REPORT.—Each report shall contain detailed information on the following:

(1) The commitments and pledges made by the European Commission, the member nations of the European Union, and the European member nations of the North Atlantic Treaty Organization for—

(A) reconstruction assistance in Kosovo;

(B) humanitarian assistance in Kosovo;

(C) the Kosovo Consolidated Budget;

(D) police (including special police) for the United Nations international police force for Kosovo; and

(E) military personnel for peacekeeping operations in Kosovo.

(2) The amount of the assistance that has been provided in each category, and the number of police and military personnel that have been deployed to Kosovo, by each organization or nation referred to in paragraph (1).

(3) The full range of commitments and responsibilities that have been undertaken for Kosovo by the United Nations, the European Union, and the Organization for Security and Cooperation in Europe (OSCE), the progress made by those organizations in fulfilling those commitments and responsibilities,

an assessment of the tasks that remain to be accomplished, and an anticipated schedule for completing those tasks.

(d) SPECIFIED CONGRESSIONAL COMMITTEES.—In the section, the term "specified congressional committees" means—

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

(2) the Committee on Armed Services, the Committee on International Relations, and the Committee on Appropriations of the House of Representatives.

Subtitle C—North Atlantic Treaty Organization and United States Forces in Europe

SEC. 1221.[8] NATO FAIR BURDENSHARING.

(a) REPORT ON COSTS OF OPERATION ALLIED FORCE.—The Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the costs to the United States of the 78-day air campaign known as Operation Allied Force conducted against the Federal Republic of Yugoslavia during the period from March 24 through June 9, 1999. The report shall include the following:

(1) The costs of ordnance expended, fuel consumed, and personnel.

(2) The estimated cost of the reduced service life of United States aircraft and other systems participating in the operation.

(b) REPORT ON BURDENSHARING OF FUTURE NATO OPERATIONS.—Whenever the North Atlantic Treaty Organization undertakes a military operation, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report describing—

(1) the contributions to that operation made by each of the member nations of the North Atlantic Treaty Organization during that operation; and

(2) the contributions that each of the member nations of the North Atlantic Treaty Organization are making or have pledged to make during any follow-on operation.

(c) TIME FOR SUBMISSION OF REPORT.—A report under subsection (b) shall be submitted not later than 90 days after the completion of the military operation.

(d) APPLICABILITY.—Subsection (b) shall apply only with respect to military operations begun after the date of the enactment of this Act.

SEC. 1222. REPEAL OF RESTRICTION PREVENTING COOPERATIVE AIRLIFT SUPPORT THROUGH ACQUISITION AND CROSS-SERVICING AGREEMENTS.

Section 2350c of title 10, United States Code, is amended—

(1) by striking subsection (d); and

(2) by redesignating subsection (e) as subsection (d).

[8] 22 U.S.C. 1928 note.

SEC. 1223. GAO STUDY ON THE BENEFITS AND COSTS OF UNITED STATES MILITARY ENGAGEMENT IN EUROPE.

(a) COMPTROLLER GENERAL STUDY.—The Comptroller General shall conduct a study assessing the benefits and costs to the United States and United States national security interests of the engagement of United States forces in Europe and of United States military strategies used to shape the international security environment in Europe.

(b) MATTERS TO BE INCLUDED.—The study shall include an assessment of the following matters:

(1) The benefits and costs to the United States of having forces stationed in Europe and assigned to areas of regional conflict such as Bosnia and Kosovo.

(2) The benefits and costs associated with stationing United States forces in Europe and with assigning those forces to areas of regional conflict, including an analysis of the benefits and costs of deploying United States forces with the forces of European allies.

(3) The amount and type of the following kinds of contributions to European security made by European allies in 1999 and 2000:

(A) Financial contributions.

(B) Contributions of military personnel and units.

(C) Contributions of nonmilitary personnel, such as medical personnel, police officers, judicial officers, and other civic officials.

(D) Contributions, including contributions in kind, for humanitarian and reconstruction assistance and infrastructure building or activities that contribute to regional stability, whether in lieu of or in addition to military-related contributions.

(4) The extent to which a forward United States military presence compensates for existing shortfalls of air and sea lift capability in the event of regional conflict in Europe or the Middle East.

(c) REPORT.—The Comptroller General shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the results of the study not later than December 1, 2001.

Subtitle D—Other Matters

SEC. 1231. JOINT DATA EXCHANGE CENTER WITH RUSSIAN FEDERATION ON EARLY WARNING SYSTEMS AND NOTIFICATION OF BALLISTIC MISSILE LAUNCHES.

(a) AUTHORITY.—The Secretary of Defense is authorized to establish, in conjunction with the Government of the Russian Federation, a United States-Russian Federation joint center for the exchange of data from systems to provide early warning of launches of ballistic missiles and for notification of launches of such missiles.

(b) SPECIFIC ACTIONS.—The actions that the Secretary undertakes for the establishment of the center may include—

(1) subject to subsection (d), participating in the renovation of a mutually agreed upon facility to be made available by the Russian Federation; and

(2) the furnishing of such equipment and supplies as may be necessary to begin the operation of the center.

(c) REPORT REQUIRED.—(1) Not later than 30 days after the date of the enactment of this Act, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on plans for the joint data exchange center.

(2) The report shall include the following:

(A) A detailed explanation as to why the particular facility intended to house the center was chosen.

(B) An estimate of the total cost of renovating that facility for use by the center.

(C) A description of the manner by which the United States proposes to meet its share of the costs of such renovation.

(d) LIMITATION.—(1) The Secretary of Defense may participate under subsection (b) in the renovation of the facility identified in the report under subsection (c) only if the United States and the Russian Federation enter into a cost-sharing arrangement that provides for an equal sharing between the two nations of the cost of establishing the center, including the costs of renovating and operating the facility.

(2) Not more than $4,000,000 of funds appropriated for fiscal year 2001 may be obligated or expended after the date of the enactment of this Act by the Secretary of Defense for the renovation of such facility until 30 days after the date on which the Secretary submits to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a copy of a written agreement between the United States and the Russian Federation that provides details of the cost-sharing arrangement specified in paragraph (1), in accordance with the Memorandum of Agreement between the two nations signed in Moscow in June 2000.

SEC. 1232. REPORT ON SHARING AND EXCHANGE OF BALLISTIC MISSILE LAUNCH EARLY WARNING DATA.

Not later than March 15, 2001, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on current and planned activities of the Department of Defense with respect to the sharing and exchange with other countries of early warning data concerning ballistic missile launches. The report shall include the Secretary's assessment of the benefits and risks of sharing such data with other countries on a bilateral or multilateral basis.

SEC. 1233. ANNUAL REPORT OF COMMUNIST CHINESE MILITARY COMPANIES OPERATING IN THE UNITED STATES.

Section 1237(b) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (50 U.S.C. 1701 note) is amended—* * *[9]

[9] For amended text, see page 917.

SEC. 1234. ADJUSTMENT OF COMPOSITE THEORETICAL PERFORMANCE LEVELS OF HIGH PERFORMANCE COMPUTERS.

(a) LAYOVER PERIOD FOR NEW PERFORMANCE LEVELS.—Section 1211 of the National Defense Authorization Act for Fiscal Year 1998 (50 U.S.C. App. 2404 note) is amended—* * *[10]

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to any new composite theoretical performance level established for purposes of section 1211(a) of the National Defense Authorization Act for Fiscal Year 1998 that is submitted by the President pursuant to section 1211(d) of that Act on or after the date of the enactment of this Act.

SEC. 1235. INCREASED AUTHORITY TO PROVIDE HEALTH CARE SERVICES AS HUMANITARIAN AND CIVIC ASSISTANCE.

Section 401(e)(1) of title 10, United States Code, is amended by striking "rural areas of a country" and inserting "areas of a country that are rural or are underserved by medical, dental, and veterinary professionals, respectively".

SEC. 1236. SENSE OF CONGRESS REGARDING THE USE OF CHILDREN AS SOLDIERS.

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

(1) In the year 2000, approximately 300,000 individuals under the age of 18 are participating in armed conflict in more than 30 countries worldwide.

(2) Many children participating in armed conflict in various countries around the world are forcibly conscripted through kidnapping or coercion, while others join military units due to economic necessity, to avenge the loss of a family member, or for their own personal safety.

(3) Many military commanders frequently force child soldiers to commit gruesome acts of ritual killings or torture against their enemies, including against other children.

(4) Many military commanders separate children from their families in order to foster dependence on military units and leaders, leaving children vulnerable to manipulation, deep traumatization, and in need of psychological counseling and rehabilitation.

(5) Child soldiers are exposed to hazardous conditions and risk physical injuries, sexually transmitted diseases, malnutrition, deformed backs and shoulders from carrying overweight loads, and respiratory and skin infections.

(6) Many young female soldiers face the additional psychological and physical horrors of rape and sexual abuse, being enslaved for sexual purposes by militia commanders, and forced to endure severe social stigma should they return home.

(7) Children in northern Uganda continue to be kidnapped by the Lords Resistance Army (LRA), which is supported and funded by the Government of Sudan and which has committed and continues to commit gross human rights violations in Uganda.

(8) Children in Sri Lanka have been forcibly recruited by the opposition Tamil Tigers movement and forced to kill or be killed in the armed conflict in that country.

[10] For amended text, see page 944.

(9) An estimated 7,000 child soldiers have been involved in the conflict in Sierra Leone, some as young as age 10, with many being forced to commit extrajudicial executions, torture, rape, and amputations for the rebel Revolutionary United Front.

(10) On January 21, 2000, in Geneva, a United Nations Working Group, including representatives from more than 80 governments including the United States, reached consensus on an international agreement, referred to in this case as an "optional protocol", on the use of child soldiers.

(11) This optional protocol, upon entry into force, will—

(A) raise the international minimum age for conscription and will require governments to take all feasible measures to ensure that members of their armed forces under age 18 do not participate directly in combat;

(B) prohibit the recruitment and use in armed conflict of persons under the age of 18 by non-governmental armed forces;

(C) encourage governments to raise the minimum legal age for voluntary recruits above the current standard of 15, and

(D) commit governments to support the demobilization and rehabilitation of child soldiers and, when possible, to allocate resources to this purpose.

(12) On October 29, 1998, United Nations Secretary General Kofi Annan set minimum age requirements for United Nations peacekeeping personnel that are made available by member nations of the United Nations.

(13) The United Nations Under-Secretary General for Peacekeeping, Bernard Miyet, announced in the Fourth Committee of the General Assembly that contributing governments of member nations were asked not to send civilian police and military observers under the age of 25 and that troops in national contingents should preferably be at least 21 years of age but in no case should they be younger than 18 years of age.

(14) On August 25, 1999, the United Nations Security Council unanimously passed Resolution 1261 (1999) condemning the use of children in armed conflicts.

(15) In addressing the Security Council on August 26, 1999, the Special Representative of the Secretary General for Children and Armed Conflict, Olara Otunnu, urged the adoption of a global three-pronged approach to combatting the use of children in armed conflict that would—

(A) first, raise the age limit for recruitment and participation in armed conflict from the present age of 15 to the age of 18;

(B) second, increase international pressure on armed groups which currently abuse children; and

(C) third, address the political, social, and economic factors that create an environment in which children are induced by appeal of ideology or by socio-economic collapse to become child soldiers.

(16) The United States delegation to the United Nations working group relating to child soldiers, which included representatives from the Department of Defense, supported the Geneva agreement on the optional protocol.

(17) On May 25, 2000, the United Nations General Assembly unanimously adopted the optional protocol on the use of child soldiers.

(18) The optional protocol was opened for signature on June 5, 2000.

(19) The President signed the optional protocol on behalf of the United States on July 5, 2000.

(b) CONGRESSIONAL STATEMENTS ON CHILD SOLDIERS.—Congress joins the international community in—

(1) condemning the use of children as soldiers by governmental and nongovernmental armed forces worldwide; and

(2) welcoming the optional protocol on the use of child soldiers adopted by the United Nations General Assembly on May 25, 2000, as a critical first step in ending the use of children as soldiers.

(c) SENSE OF CONGRESS ON FURTHER ACTIONS.—It is the sense of Congress that—

(1) it is essential that the President consult closely with the Senate with the objective of building support for ratification by the United States of the optional protocol and that the Senate move forward as expeditiously as possible;

(2) the United States should provide assistance, through a new fund to be established by law, for the rehabilitation and reintegration into their respective civilian societies of child soldiers of other nations; and

(3) the President, acting through the Secretaries of State and Defense and other appropriate officials, should undertake all possible efforts to persuade and encourage other governments to ratify and endorse the optional protocol on the use of child soldiers.

SEC. 1237. SENSE OF CONGRESS REGARDING UNDERSEA RESCUE AND RECOVERY.

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

(1) The tragic loss in August 2000 of the Russian submarine Kursk resulted in the death of all 118 members of the submarine's crew.

(2) The Kursk is the third vessel of the submarine fleet of the Russian Federation and its predecessor, the Union of Soviet Socialist Republics, to be lost in an accident at sea with considerable loss of life of the officers and crews of those submarines.

(3) The United States submarines USS Thresher and USS Scorpion, with their officers and crews, were also lost at sea in tragic accidents, in 1963 and 1968, respectively.

(4) The United States, the Russian Federation, and other maritime nations possess extensive capabilities consisting of naval and research vessels and other assets that could be used to respond to accidents or incidents involving submarines or other undersea vessels.

(5) The United States Navy has rescue agreements with the navies of 14 countries from Europe, the Western Pacific, and the Americas, but not including the Russian Federation, and exercises regularly to train crews and practice submarine rescue procedures with the navies of participating nations.

(b) EXPRESSION OF SYMPATHY.—Congress expresses its sympathy and the sympathy of the American people to the people of the Russian Federation and joins the Russian people in mourning the death of the crewmen of the submarine Kursk.

(c) SENSE OF CONGRESS CONCERNING INTERNATIONAL COOPERATION.—It is the sense of Congress that when undersea accidents or incidents involving submarines or other undersea vessels occur, it is in the best interests of all nations to work together to respond promptly to the accident or incident, rescue and recover the crew of the vessel, minimize the loss of life, and prevent damage to the oceans.

(d) ESTABLISHMENT OF PLAN FOR RESPONDING TO UNDERSEA ACCIDENTS OR INCIDENTS.—Congress urges the President of the United States and the President of the Russian Federation, in coordination with the leaders of other maritime nations that possess undersea naval and research vessels and undersea rescue capabilities, to cooperate in establishing a plan for—

(1) responding to accidents or incidents involving submarines or other undersea vessels; and

(2) rescue and recovery of the crew of the vessels involved in such accidents or incidents.

SEC. 1238.[11] UNITED STATES-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION.

(a) PURPOSES.—The purposes of this section are as follows:

(1) To establish the United States-China Economic and [11] Security Review Commission to review the national security implications of trade and economic ties between the United States and the People's Republic of China.

(2) To facilitate the assumption by the United States-China Economic and [11] Security Review Commission of its duties regarding the review referred to in paragraph (1) by providing for the transfer to that Commission of staff, materials, and infrastructure (including leased premises) of the Trade Deficit Review Commission that are appropriate for the review upon the submittal of the final report of the Trade Deficit Review Commission.

(b) ESTABLISHMENT OF UNITED STATES-CHINA ECONOMIC AND [11] SECURITY REVIEW COMMISSION.—

(1) IN GENERAL.—There is hereby established a commission to be known as the United States-China Economic and [11] Security Review Commission (in this section referred to as the "Commission").

[11] 22 U.S.C. 7002. Sec. 2(b)(1) of the United States-China Economic and Security Review Commission (division P of Public Law 108–7; 117 Stat. 552) inserted "ECONOMIC AND" in the section catchline and throughout the section.

(2) PURPOSE.—The purpose of the Commission is to monitor, investigate, and report to Congress on the national security implications of the bilateral trade and economic relationship between the United States and the People's Republic of China.

(3) MEMBERSHIP.—The United States-China Economic and [11] Security Review Commission shall be composed of 12 members, who shall be appointed in the same manner provided for the appointment of members of the Trade Deficit Review Commission under section 127(c)(3) of the Trade Deficit Review Commission Act (19 U.S.C. 2213 note), except that—

(A) appointment of members by the Speaker of the House of Representatives shall be made after consultation with the chairman of the Committee on Armed Services of the House of Representatives, in addition to consultation with the chairman of the Committee on Ways and Means of the House of Representatives provided for under clause (iii) of subparagraph (A) of that section;

(B) appointment of members by the President pro tempore of the Senate upon the recommendation of the majority leader of the Senate shall be made after consultation with the chairman of the Committee on Armed Services of the Senate, in addition to consultation with the chairman of the Committee on Finance of the Senate provided for under clause (i) of that subparagraph;

(C) appointment of members by the President pro tempore of the Senate upon the recommendation of the minority leader of the Senate shall be made after consultation with the ranking minority member of the Committee on Armed Services of the Senate, in addition to consultation with the ranking minority member of the Committee on Finance of the Senate provided for under clause (ii) of that subparagraph;

(D) appointment of members by the minority leader of the House of Representatives shall be made after consultation with the ranking minority member of the Committee on Armed Services of the House of Representatives, in addition to consultation with the ranking minority member of the Committee on Ways and Means of the House of Representatives provided for under clause (iv) of that subparagraph;

(E) persons appointed to the Commission shall have expertise in national security matters and United States-China relations, in addition to the expertise provided for under subparagraph (B)(i)(I) of that section;

(F) [12] each appointing authority referred tounder subparagraphs (A) through (D) of this paragraph shall—

(i) appoint 3 members to the Commission;

(ii) make the appointments on a staggered term basis, such that—

[12] Sec. 2(c)(1) of the United States-China Economic and Security Review Commission (division P of Public Law 108–7; 117 Stat. 552) amended and restated subpara. (F). It formerly read as follows:

"(F) members shall be appointed to the Commission not later than 30 days after the date on which each new Congress convenes;".

(I) 1 appointment shall be for a term expiring on December 31, 2003;

(II) 1 appointment shall be for a term expiring on December 31, 2004; and

(III) 1 appointment shall be for a term expiring on December 31, 2005;

(iii) make all subsequent appointments on an approximate 2-year term basis to expire on December 31 of the applicable year; and

(iv) make appointments not later than 30 days after the date on which each new Congress convenes;

(G) members of the Commission may be reappointed for additional terms of service as members of the Commission; and

(H) members of the Trade Deficit Review Commission as of the date of the enactment of this Act shall serve as members of the United States-China Security Review Commission until such time as members are first appointed to the United States-China Economic and [11] Security Review Commission under this paragraph.

(4) RETENTION OF SUPPORT.—The United States-China Economic and [11] Security Review Commission shall retain and make use of such staff, materials, and infrastructure (including leased premises) of the Trade Deficit Review Commission as the United States-China Economic and [11] Security Review Commission determines, in the judgment of the members of the United States-China Economic and [11] Security Review Commission, are required to facilitate the ready commencement of activities of the United States-China Economic and [11] Security Review Commission under subsection (c) or to carry out such activities after the commencement of such activities.

(5) CHAIRMAN AND VICE CHAIRMAN.—The members of the Commission shall select a Chairman and Vice Chairman of the Commission from among the members of the Commission.

(6) MEETINGS.—

(A) MEETINGS.—The Commission shall meet at the call of the Chairman of the Commission.

(B) QUORUM.—A majority of the members of the Commission shall constitute a quorum for the transaction of business of the Commission.

(7) VOTING.—Each member of the Commission shall be entitled to one vote, which shall be equal to the vote of every other member of the Commission.

(c) DUTIES.—

(1) ANNUAL REPORT.—Not later than June [13] 1 each year (beginning in 2002), the Commission shall submit to Congress a report, in both unclassified and classified form, regarding the national security implications and impact of the bilateral trade and economic relationship between the United States and the

[13] Sec. 648 of Public Law 107–67 (115 Stat. 556) struck out "March" and inserted in lieu thereof "June".

People's Republic of China. The report shall include a full analysis, along with conclusions and recommendations for legislative and administrative actions, if any, of the national security implications for the United States of the trade and current balances with the People's Republic of China in goods and services, financial transactions, and technology transfers. The Commission shall also take into account patterns of trade and transfers through third countries to the extent practicable.

(2) CONTENTS OF REPORT.—Each report under paragraph (1) shall include, at a minimum, a full discussion of the following:

(A) The portion of trade in goods and services with the United States that the People's Republic of China dedicates to military systems or systems of a dual nature that could be used for military purposes.

(B) The acquisition by the People's Republic of China of advanced military or dual-use technologies from the United States by trade (including procurement) and other technology transfers, especially those transfers, if any, that contribute to the proliferation of weapons of mass destruction or their delivery systems, or that undermine international agreements or United States laws with respect to nonproliferation.

(C) Any transfers, other than those identified under subparagraph (B), to the military systems of the People's Republic of China made by United States firms and United States-based multinational corporations.

(D) An analysis of the statements and writing of the People's Republic of China officials and officially-sanctioned writings that bear on the intentions, if any, of the Government of the People's Republic of China regarding the pursuit of military competition with, and leverage over, or cooperation with, the United States and the Asian allies of the United States.

(E) The military actions taken by the Government of the People's Republic of China during the preceding year that bear on the national security of the United States and the regional stability of the Asian allies of the United States.

(F) The effects, if any, on the national security interests of the United States of the use by the People's Republic of China of financial transactions and capital flow and currency manipulations.

(G) Any action taken by the Government of the People's Republic of China in the context of the World Trade Organization that is adverse or favorable to the United States national security interests.

(H) Patterns of trade and investment between the People's Republic of China and its major trading partners, other than the United States, that appear to be substantively different from trade and investment patterns with the United States and whether the differences have any national security implications for the United States.

(I) The extent to which the trade surplus of the People's Republic of China with the United States enhances the military budget of the People's Republic of China.

(J) An overall assessment of the state of the security challenges presented by the People's Republic of China to the United States and whether the security challenges are increasing or decreasing from previous years.

(3) RECOMMENDATIONS OF REPORT.—Each report under paragraph (1) shall also include recommendations for action by Congress or the President, or both, including specific recommendations for the United States to invoke Article XXI (relating to security exceptions) of the General Agreement on Tariffs and Trade 1994 with respect to the People's Republic of China, as a result of any adverse impact on the national security interests of the United States.

(d) HEARINGS.—

(1) IN GENERAL.—The Commission or, at its direction, any panel or member of the Commission, may for the purpose of carrying out the provisions of this section, hold hearings, sit and act at times and places, take testimony, receive evidence, and administer oaths to the extent that the Commission or any panel or member considers advisable.

(2) INFORMATION.—The Commission may secure directly from the Department of Defense, the Central Intelligence Agency, and any other Federal department or agency information that the Commission considers necessary to enable the Commission to carry out its duties under this section, except the provision of intelligence information to the Commission shall be made with due regard for the protection from unauthorized disclosure of classified information relating to sensitive intelligence sources and methods or other exceptionally sensitive matters, under procedures approved by the Director of Central Intelligence.

(3) SECURITY.—The Office of Senate Security shall—

(A) provide classified storage and meeting and hearing spaces, when necessary, for the Commission; and

(B) assist members and staff of the Commission in obtaining security clearances.

(4) SECURITY CLEARANCES.—All members of the Commission and appropriate staff shall be sworn and hold appropriate security clearances.

(e) COMMISSION PERSONNEL MATTERS.—

(1) COMPENSATION OF MEMBERS.—Members of the United States-China Economic and [11] Security Review Commission shall be compensated in the same manner provided for the compensation of members of the Trade Deficit Review Commission under section 127(g)(1) and section 127(g)(6) of the Trade Deficit Review Commission Act (19 U.S.C. 2213 note).

(2) TRAVEL EXPENSES.—Travel expenses of the United States-China Economic and [11] Security Review Commission shall be allowed in the same manner provided for the allowance of the travel expenses of the Trade Deficit Review Commission under section 127(g)(2) of the Trade Deficit Review Commission Act.

(3) STAFF.—An executive director and other additional personnel for the United States-China Economic and [11] Security Review Commission shall be appointed, compensated, and terminated in the same manner provided for the appointment,

compensation, and termination of the executive director and other personnel of the Trade Deficit Review Commission under section 127(g)(3) and section 127(g)(6) of the Trade Deficit Review Commission Act. The executive director and any personnel who are employees of the United States-China Economic and[11] Security Review Commission shall be employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.[14]

(4) DETAIL OF GOVERNMENT EMPLOYEES.—Federal Government employees may be detailed to the United States-China Economic and[11] Security Review Commission in the same manner provided for the detail of Federal Government employees to the Trade Deficit Review Commission under section 127(g)(4) of the Trade Deficit Review Commission Act.

(5) FOREIGN TRAVEL FOR OFFICIAL PURPOSES.—Foreign travel for official purposes by members and staff of the Commission may be authorized by either the Chairman or the Vice Chairman of the Commission.

(6) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the United States-China Economic and[11] Security Review Commission may procure temporary and intermittent services for the United States-China Security Review Commission in the same manner provided for the procurement of temporary and intermittent services for the Trade Deficit Review Commission under section 127(g)(5) of the Trade Deficit Review Commission Act.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to the Commission for fiscal year 2001, and for each fiscal year thereafter, such sums as may be necessary to enable the Commission to carry out its functions under this section.

(2) AVAILABILITY.—Amounts appropriated to the Commission shall remain available until expended.

(g) FEDERAL ADVISORY COMMITTEE ACT.—The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(h) EFFECTIVE DATE.—This section shall take effect on the first day of the 107th Congress.

TITLE XIII—COOPERATIVE THREAT REDUCTION WITH STATES OF THE FORMER SOVIET UNION[15]

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[14] Sec. 645(a) of Public Law 107–67 (115 Stat. 556) added this sentence, effective January 3, 2001.

[15] For text, see *Legislation on Foreign Relations Through 2004*, vol. II, sec. F.

DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

* * * * * * *

Subtitle F—Matters Relating to Defense Nuclear Nonproliferation

SEC. 3171.[16] * * * [Redesignated—2003]

SEC. 3172.[17] * * * [Redesignated—2003]

SEC. 3173. DEPARTMENT OF ENERGY NONPROLIFERATION MONITORING.

(a) REPORT REQUIRED.—Not later than March 1, 2001, the Secretary of Energy shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the efforts of the Department of Energy to ensure adequate oversight and accountability of the Department's nonproliferation programs in Russia and the potential costs and effects of the use of on-the-ground monitoring for the Department's significant nonproliferation programs in Russia. The report shall include the following:

(1) A detailed discussion of the current management and oversight mechanisms used to ensure that Federal funds are expended for the intended purposes of those programs and that the projects are achieving their intended objectives.

(2) An evaluation of whether those mechanisms are adequate.

(3) A discussion of whether there is a need for additional employees of the Department, or of contractors of the Department, to be stationed in Russia, or to visit nonproliferation project sites in Russia on a regular basis, to monitor the programs carried out at those sites, and an estimate of the practical considerations and costs of such monitoring.

(4) An identification of each nonproliferation program and each site at which an employee referred to in paragraph (3) would be placed to monitor that program.

(5) A description of the costs associated with continued on-the-ground monitoring of those programs, including the costs associated with placing those employees in Russia.

(6) Recommendations regarding the most cost-effective option for the Department to pursue to ensure that Federal funds for those programs are expended for the intended purposes of those programs.

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[16] Sec. 3141(f)(4) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1763) redesignated sec. 3171, relating to annual reports on the status of nuclear materials protection, control, and accounting, as sec. 4303 of Public Law 107–314, and at 50 U.S.C. 2563.

[17] Sec. 3141(f)(5) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1763) redesignated sec. 3172, relating to the Nuclear Cities Initiative, as sec. 4304 of Public Law 107–314, and at 50 U.S.C. 2564.

(7) Any recommendations of the Secretary for further improvements in the oversight and accountability of those programs, including any proposed legislation.

(b) GAO REPORT.—Not later than April 15, 2001, the Comptroller General shall submit to the committees referred to in subsection (a) a report setting forth the assessment of the Comptroller General concerning the information contained in the report required by that subsection.

SEC. 3174. SENSE OF CONGRESS ON THE NEED FOR COORDINATION OF NONPROLIFERATION PROGRAMS.

It is the sense of Congress that there should be clear and effective coordination among—

(1) the Nuclear Cities Initiative;

(2) the Initiatives for Proliferation Prevention program;

(3) the Cooperative Threat Reduction programs;

(4) the Nuclear Materials Protection, Control, and Accounting Program; and

(5) the International Science and Technology Center program.

SEC. 3175. LIMITATION ON USE OF FUNDS FOR INTERNATIONAL NUCLEAR SAFETY PROGRAM.

Amounts authorized to be appropriated or otherwise made available by this title for the Department of Energy for fiscal year 2001 for the International Nuclear Safety Program in the former Soviet Union and Eastern Europe shall be available only for purposes of reactor safety upgrades and training relating to nuclear operator and reactor safety.

* * * * * * *

j. National Defense Authorization Act for Fiscal Year 2000

Partial text of Public Law 106–65 [S. 1059], 113 Stat. 512, approved October 5, 1999; amended by Public Law 106–113 [Security Assistance Act of 1999; title XII of H.R. 3427, enacted by reference in sec. 1000(a)(7), H.R. 3194], 113 Stat. 1536, approved November 29, 1999; Public Law 106–398 [Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001; H.R. 4205], 114 Stat. 1654, approved October 30, 2000; Public Law 107–107 [National Defense Authorization Act for Fiscal Year 2002; S. 1438], 115 Stat. 1012, approved December 28, 2001; Public Law 108–136 [National Defense Authorization Act for Fiscal Year 2004; H.R. 1588], 117 Stat. 11392, approved November 24, 2003

AN ACT To authorize appropriations for fiscal year 2000 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Defense Authorization Act for Fiscal Year 2000".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into three divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

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

SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.

For purposes of this Act, the term "congressional defense committees" means—

(1) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

(2) the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

SUBTITLE A—AUTHORIZATION OF APPROPRIATIONS

* * * * * * *

SEC. 107. CHEMICAL DEMILITARIZATION PROGRAM.

There is hereby authorized to be appropriated for fiscal year 2000 the amount of $1,024,000,000 for—

(1) the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521); and

(2) the destruction of chemical warfare materiel of the United States that is not covered by section 1412 of such Act.

* * * * * * *

SUBTITLE E—CHEMICAL STOCKPILE DESTRUCTION PROGRAM

SEC. 141.[1] DESTRUCTION OF EXISTING STOCKPILE OF LETHAL CHEMICAL AGENTS AND MUNITIONS.

(a) PROGRAM ASSESSMENT.—(1) The Secretary of Defense shall conduct an assessment of the current program for destruction of the United States' stockpile of chemical agents and munitions, including the Assembled Chemical Weapons Assessment, for the purpose of reducing significantly the cost of such program and ensuring completion of such program in accordance with the obligations of the United States under the Chemical Weapons Convention while maintaining maximum protection of the general public, the personnel involved in the demilitarization program, and the environment.

(2) Based on the results of the assessment conducted under paragraph (1), the Secretary may take those actions identified in the assessment that may be accomplished under existing law to achieve the purposes of such assessment and the chemical agents and munitions stockpile destruction program.

(3) Not later than March 1, 2000, the Secretary shall submit to Congress a report on—

(A) those actions taken, or planned to be taken, under paragraph (2); and

(B) any recommendations for additional legislation that may be required to achieve the purposes of the assessment conducted under paragraph (1) and of the chemical agents and munitions stockpile destruction program.

(b)[2] CHANGES AND CLARIFICATIONS REGARDING PROGRAM.—Section 1412 of the Department of Defense Authorization Act, 1986 (Public Law 99–145; 50 U.S.C. 1521) is amended—* * *

(c) COMPTROLLER GENERAL ASSESSMENT AND REPORT.—(1) Not later than March 1, 2000, the Comptroller General of the United States shall review and assess the program for destruction of the United States stockpile of chemical agents and munitions and report the results of the assessment to the congressional defense committees.

(2) The assessment conducted under paragraph (1) shall include a review of the program execution and financial management of each of the elements of the program, including—

(A) the chemical stockpile disposal project;

(B) the nonstockpile chemical materiel project;

(C) the alternative technologies and approaches project;

(D) the chemical stockpile emergency preparedness program; and

[1] 50 U.S.C. 1521 note.

[2] For amended text, see page 1281.

(E) the assembled chemical weapons assessment program.

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

(1) The term "Assembled Chemical Weapons Assessment" means the pilot program carried out under section 8065 of the Department of Defense Appropriations Act, 1997 (section 101(b) of Public Law 104–208; 110 Stat. 3009–101; 50 U.S.C. 1521 note).

(2) The term "Chemical Weapons Convention" means the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, ratified by the United States on April 25, 1997, and entered into force on April 29, 1997.

SEC. 142. COMPTROLLER GENERAL REPORT ON ANTICIPATED EFFECTS OF PROPOSED CHANGES IN OPERATION OF STORAGE SITES FOR LETHAL CHEMICAL AGENTS AND MUNITIONS.

(a) REPORT REQUIRED.—Not later than March 31, 2000, the Comptroller General shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the proposal in the latest quadrennial defense review to reduce the Federal civilian workforce involved in the operation of the eight storage sites for lethal chemical agents and munitions in the continental United States and to convert to contractor operation of the storage sites. The workforce reductions addressed in the report shall include those that are to be effectuated by fiscal year 2002.

(b) CONTENT OF REPORT.—The report shall include the following:

(1) For each site, a description of the assigned chemical storage, chemical demilitarization, and industrial missions.

(2) A description of the criteria and reporting systems applied to ensure that the storage sites and the workforce operating the storage sites have—

(A) the capabilities necessary to respond effectively to emergencies involving chemical accidents; and

(B) the industrial capabilities necessary to meet replenishment and surge requirements.

(3) The risks associated with the proposed workforce reductions and contractor performance, particularly regarding chemical accidents, incident response capabilities, community-wide emergency preparedness programs, and current or planned chemical demilitarization programs.

(4) The effects of the proposed workforce reductions and contractor performance on the capability to satisfy permit requirements regarding environmental protection that are applicable to the performance of current and future chemical demilitarization and industrial missions.

(5) The effects of the proposed workforce reductions and contractor performance on the capability to perform assigned industrial missions, particularly the materiel replenishment missions for chemical or biological defense or for chemical munitions.

(6) Recommendations for mitigating the risks and adverse effects identified in the report.

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TITLE III—OPERATION AND MAINTENANCE

* * * * * * *

SUBTITLE A—AUTHORIZATION OF APPROPRIATIONS

SEC. 301. OPERATION AND MAINTENANCE FUNDING.

Funds are hereby authorized to be appropriated for fiscal year 2000 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

* * *

(19) For Overseas Humanitarian, Disaster, and Civic Aid programs, $55,800,000.

(20) For Drug Interdiction and Counter-drug Activities, Defense-wide, $803,500,000.

* * *

(23) For Cooperative Threat Reduction programs, $475,500,000.

(24) For Overseas Contingency Operations Transfer Fund, $1,879,600,000.

* * * * * * *

SUBTITLE C—ENVIRONMENTAL PROVISIONS

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SEC. 329. RELEASE OF INFORMATION TO FOREIGN COUNTRIES REGARDING ANY ENVIRONMENTAL CONTAMINATION AT FORMER UNITED STATES MILITARY INSTALLATIONS IN THOSE COUNTRIES.

(a) RESPONSE TO REQUEST FOR INFORMATION.—Except as provided in subsection (b), upon request by the government of a foreign country from which United States Armed Forces were withdrawn in 1992, the Secretary of Defense shall—

(1) release to that government available information relevant to the ability of that government to determine the nature and extent of environmental contamination, if any, at a site in that foreign country where the United States operated a military base, installation, or facility before the withdrawal of the United States Armed Forces in 1992; or

(2) report to Congress on the nature of the information requested and the reasons why the information is not being released.

(b) LIMITATION ON RELEASE.—Subsection (a)(1) does not apply to—

(1) any information request described in such subsection that is received by the Secretary of Defense after the end of the one-year period beginning on the date of the enactment of this Act;

(2) any information that the Secretary determines has been previously provided to the foreign government; and

(3) any information that the Secretary of Defense believes could adversely affect United States national security.

(c) LIABILITY OF THE UNITED STATES.—The requirement to provide information under subsection (a)(1) may not be construed to establish on the part of the United States any liability or obligation

for the costs of environmental restoration or remediation at any site referred to in such subsection.

* * * * * * *

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

* * * * * * *

SUBTITLE A—ACTIVE FORCES

SEC. 401.[3] END STRENGTHS FOR ACTIVE FORCES.

The Armed Forces are authorized strengths for active duty personnel as of September 30, 2000, as follows:

(1) The Army, 480,000.
(2) The Navy, 372,037.
(3) The Marine Corps, 172,518.
(4) The Air Force, 360,877.

SEC. 402. REVISION IN PERMANENT END STRENGTH MINIMUM LEVELS.

(a) REVISED END STRENGTH FLOORS.—Section 691(b) of title 10, United States Code, is amended—* * *[4]

* * * * * * *

TITLE V—MILITARY PERSONNEL POLICY

* * * * * * *

SUBTITLE E—EDUCATION AND TRAINING

SEC. 541.[5] ESTABLISHMENT OF A DEPARTMENT OF DEFENSE INTERNATIONAL STUDENT PROGRAM AT THE SENIOR MILITARY COLLEGES.

(a) IN GENERAL.—(1) Chapter 103 of title 10, United States Code, is amended by adding at the end the following new section: * * *

* * * * * * *

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

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SUBTITLE B—DEPARTMENT OF DEFENSE ORGANIZATION

* * * * * * *

SEC. 912. ENHANCEMENT OF TECHNOLOGY SECURITY PROGRAM OF DEPARTMENT OF DEFENSE.

(a) SPECIFICATION OF TECHNOLOGY SECURITY DIRECTORATE.—For purposes of this section, a reference to the Technology Security Directorate is a reference to the element within the Defense Threat Reduction Agency of the Department of Defense having responsibility for technology security matters (known as of the date of the enactment of this Act as the Technology Security Directorate).

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[3] 10 U.S.C. 115 note.
[4] See 10 U.S.C. 691.
[5] See 10 U.S.C. 2111b.

(b) FUNCTIONS.—The head of the Technology Security Directorate shall have authority to advise the Secretary of Defense and the Deputy Secretary of Defense, through the Under Secretary of Defense for Policy, on policy issues related to the transfer of strategically sensitive technology, including issues relating to the following:

(1) Strategic trade.
(2) Defense cooperative programs.
(3) Science and technology agreements and exchanges.
(4) Export of munitions items.
(5) International memorandums of understanding.
(6) Foreign acquisitions.

(c) RESOURCES FOR TECHNOLOGY SECURITY DIRECTORATE.—The Secretary of Defense shall ensure that the head of the Technology Security Directorate has appropriate personnel and fiscal resources available, and receives all necessary support, to carry out the missions of the Directorate efficiently and effectively.

(d) APPROVAL AUTHORITY OF UNDER SECRETARY FOR POLICY.—Staff and resources of the Technology Security Directorate may not be used to fulfill any requirement or activity of the Defense Threat Reduction Agency that does not directly relate to the technology security and export control missions of the Technology Security Directorate except with the prior approval of the Under Secretary of Defense for Policy.

(e) REPORT ON EXPORT CONTROL RESOURCES.—Not later than March 1, 2000, the Secretary of Defense shall submit to the congressional defense committees a report setting forth the personnel and budget resources of the Technology Security Directorate as of October 1, 1998, and as of September 30, 1999, as well as any planned increases in those resources for fiscal years 2000 and 2001. The report shall include the following:

(1) Numbers of personnel, measured in full-time equivalents.
(2) Number of license applications reviewed.
(3) The budget of the Technology Security Directorate.
(4) The number of personnel during the preceding fiscal year assigned to the Technology Security Directorate who were assigned during that year to assist in activities of the Defense Threat Reduction Agency unrelated to technology security or export control issues, together with an explanation of the effect of any such assignment on the Directorate's ability to fulfill its mission.

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SEC. 914. CENTER FOR THE STUDY OF CHINESE MILITARY AFFAIRS.

(a) ESTABLISHMENT.—The Secretary of Defense shall establish a Center for the Study of Chinese Military Affairs as part of the National Defense University. The Center shall be organized under the Institute for National Strategic Studies of the University.

(b) QUALIFICATIONS OF DIRECTOR.—The Director of the Center shall be an individual who is a distinguished scholar of proven academic, management, and leadership credentials with a superior record of achievement and publication regarding Chinese political, strategic, and military affairs.

(c) MISSION.—The mission of the Center is to study and inform policymakers in the Department of Defense, Congress, and throughout the Government regarding the national goals and strategic posture of the People's Republic of China and the ability of that nation to develop, field, and deploy an effective military instrument in support of its national strategic objectives. The Center shall accomplish that mission by a variety of means intended to widely disseminate the research findings of the Center.

(d) STARTUP OF CENTER.—The Secretary of Defense shall establish the Center for the Study of Chinese Military Affairs not later than March 1, 2000. The first Director of the Center shall be appointed not later than June 1, 2000. The Center should be fully operational not later than June 1, 2001.

(e) IMPLEMENTATION REPORT.—(1) Not later than January 1, 2001, the President of the National Defense University shall submit to the Secretary of Defense a report setting forth the President's organizational plan for the Center for the Study of Chinese Military Affairs, the proposed budget for the Center, and the timetable for initial and full operations of the Center. The President of the National Defense University shall prepare that report in consultation with the Director of the Center and the Director of the Institute for National Strategic Studies of the University.

(2) The Secretary of Defense shall transmit the report under paragraph (1), together with whatever comments the Secretary considers appropriate, to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives not later than February 1, 2001.

SEC. 915. AUTHORITY FOR ACCEPTANCE BY ASIA-PACIFIC CENTER FOR SECURITY STUDIES OF FOREIGN GIFTS AND DONATIONS.

(a) IN GENERAL.—Chapter 155 of title 10, United States Code, is amended by adding at the end the following new section: * * *[6]

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SUBTITLE D—OTHER MATTERS

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SEC. 932. OVERSIGHT OF DEPARTMENT OF DEFENSE ACTIVITIES TO COMBAT TERRORISM.

(a) REPORT REQUIREMENT.—Not later than December 31, 1999, the Secretary of Defense shall submit to the congressional defense committees a report, in classified and unclassified form, identifying all programs and activities of the Department of Defense combating terrorism program. The report shall include—

(1) the definitions used by the Department of Defense for all terms relating to combating terrorism, including "counterterrorism", "anti-terrorism", and "consequence management"; and

(2) the various initiatives and projects being conducted by the Department that fall under each of the categories referred to in paragraph (1).

[6] See 10 U.S.C. 2611.

(b) ANNUAL BUDGET INFORMATION.—(1) Chapter 9 of title 10, United States Code, is amended by adding at the end the following new section: * * *[7]

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TITLE X—GENERAL PROVISIONS

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SUBTITLE A—FINANCIAL MATTERS

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SEC. 1004. SUPPLEMENTAL APPROPRIATIONS REQUEST FOR OPERATIONS IN YUGOSLAVIA.

If the President determines that it is in the national security interest of the United States to conduct combat or peacekeeping operations in the Federal Republic of Yugoslavia during fiscal year 2000, the President shall transmit to the Congress a supplemental appropriations request for the Department of Defense for such amounts as are necessary for the costs of any such operation.

SEC. 1005. UNITED STATES CONTRIBUTION TO NATO COMMON-FUNDED BUDGETS IN FISCAL YEAR 2000.

(a) FISCAL YEAR 2000 LIMITATION.—The total amount contributed by the Secretary of Defense in fiscal year 2000 for the common-funded budgets of NATO may be any amount up to, but not in excess of, the amount specified in subsection (b) (rather than the maximum amount that would otherwise be applicable to those contributions under the fiscal year 1998 baseline limitation).

(b) TOTAL AMOUNT.—The amount of the limitation applicable under subsection (a) is the sum of the following:

(1) The amounts of unexpended balances, as of the end of fiscal year 1999, of funds appropriated for fiscal years before fiscal year 2000 for payments for those budgets.

(2) The amount specified in subsection (c)(1).

(3) The amount specified in subsection (c)(2).

(4) The total amount of the contributions authorized to be made under section 2501.

(c) AUTHORIZED AMOUNTS.—Amounts authorized to be appropriated by titles II and III of this Act are available for contributions for the common-funded budgets of NATO as follows:

(1) Of the amount provided in section 201(1), $750,000 for the Civil Budget.

(2) Of the amount provided in section 301(1), $216,400,000 for the Military Budget.

(d) DEFINITIONS.—For purposes of this section:

(1) COMMON-FUNDED BUDGETS OF NATO.—The term "common-funded budgets of NATO" means the Military Budget, the Security Investment Program, and the Civil Budget of the North Atlantic Treaty Organization (and any successor or additional account or program of NATO).

(2) FISCAL YEAR 1998 BASELINE LIMITATION.—The term "fiscal year 1998 baseline limitation" means the maximum annual

[7] See 10 U.S.C. 229.

amount of Department of Defense contributions for common-funded budgets of NATO that is set forth as the annual limitation in section 3(2)(C)(ii) of the resolution of the Senate giving the advice and consent of the Senate to the ratification of the Protocols to the North Atlantic Treaty of 1949 on the Accession of Poland, Hungary, and the Czech Republic (as defined in section 4(7) of that resolution), approved by the Senate on April 30, 1998.

SEC. 1006. LIMITATION ON FUNDS FOR BOSNIA PEACEKEEPING OPERATIONS FOR FISCAL YEAR 2000.

(a) LIMITATION.—(1) Of the amounts authorized to be appropriated by section 301(24) of this Act for the Overseas Contingency Operations Transfer Fund, no more than $1,824,400,000 may be obligated for incremental costs of the Armed Forces for Bosnia peacekeeping operations.

(2) The President may waive the limitation in paragraph (1) after submitting to Congress the following:

(A) The President's written certification that the waiver is necessary in the national security interests of the United States.

(B) The President's written certification that exercising the waiver will not adversely affect the readiness of United States military forces.

(C) A report setting forth the following:

(i) The reasons that the waiver is necessary in the national security interests of the United States.

(ii) The specific reasons that additional funding is required for the continued presence of United States military forces participating in, or supporting, Bosnia peacekeeping operations for fiscal year 2000.

(iii) A discussion of the impact on the military readiness of United States Armed Forces of the continuing deployment of United States military forces participating in, or supporting, Bosnia peacekeeping operations.

(D) A supplemental appropriations request for the Department of Defense for such amounts as are necessary for the additional fiscal year 2000 costs associated with United States military forces participating in, or supporting, Bosnia peacekeeping operations.

(b) BOSNIA PEACEKEEPING OPERATIONS DEFINED.—For the purposes of this section, the term "Bosnia peacekeeping operations" has the meaning given such term in section 1004(e) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2112).[8]

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[8] Sec. 1004(e) of Public Law 105–261 (112 Stat. 2112) provided as follows:

"(e) BOSNIA PEACEKEEPING OPERATIONS DEFINED.—For the purposes of this section, the term 'Bosnia peacekeeping operations'—

"(1) means the operation designated as Operation Joint Forge and any other operation involving the participation of any of the Armed Forces in peacekeeping or peace enforcement activities in and around the Republic of Bosnia and Herzegovina; and

"(2) includes, with respect to Operation Joint Forge or any such other operation, each activity that is directly related to the support of the operation.".

SUBTITLE B—NAVAL VESSELS AND SHIPYARDS

* * * * * * *

SEC. 1017. TRANSFER OF NAVAL VESSEL TO FOREIGN COUNTRY.

(a) TRANSFER TO THAILAND.—The Secretary of the Navy is authorized to transfer to the Government of Thailand the CYCLONE class coastal patrol craft CYCLONE (PC1) or a craft with a similar hull. The transfer shall be made on a sale, lease, lease/buy, or grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j).

(b) COSTS.—Any expense incurred by the United States in connection with the transfer authorized by subsection (a) shall be charged to the Government of Thailand.

(c) REPAIR AND REFURBISHMENT IN UNITED STATES SHIPYARD.—To the maximum extent practicable, the Secretary of the Navy shall require, as a condition of the transfer of the vessel to the Government of Thailand under this section, that the Government of Thailand have such repair or refurbishment of the vessel as is needed, before the vessel joins the naval forces of that country, performed at a United States naval shipyard or other shipyard located in the United States.

(d) EXPIRATION OF AUTHORITY.—The authority to transfer a vessel under subsection (a) shall expire at the end of the two-year period beginning on the date of the enactment of this Act.

SEC. 1018.[9] AUTHORITY TO TRANSFER NAVAL VESSELS TO CERTAIN FOREIGN COUNTRIES.

(a) AUTHORITY TO TRANSFER.—

(1) DOMINICAN REPUBLIC.—The President[10] is authorized to transfer to the Government of the Dominican Republic the medium auxiliary floating dry dock AFDM 2. Such transfer shall be on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j).

(2) ECUADOR.—The President[10] is authorized to transfer to the Government of Ecuador the "OAK RIDGE" class medium auxiliary repair dry dock ALAMOGORDO (ARDM 2). Such transfer shall be on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j).

(3) EGYPT.—The President[10] is authorized to transfer to the Government of Egypt the "NEWPORT" class tank landing ships BARBOUR COUNTY (LST 1195) and PEORIA (LST 1183). Such transfers shall be on a sale basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761).

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[9] Sec. 1271(a) of the Security Assistance Act of 1999 (title XII of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2001 and 2001 (enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536)) provided the following:

"(a) INAPPLICABILITY OF AGGREGATE ANNUAL LIMITATION ON VALUE OF TRANSFERRED EXCESS DEFENSE ARTICLES.—The value of a vessel transferred to another country on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) pursuant to authority provided by section 1018(a) of the National Defense Authorization Act for Fiscal Year 2000 shall not be counted for the purposes of section 516(g) of the Foreign Assistance Act of 1961 in the aggregate value of excess defense articles transferred to countries under that section in any fiscal year.".

[10] Sec. 1271(b)(1) of the Security Assistance Act of 1999 (title XII of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2001 and 2001 (enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536)) struck out "Secretary of the Navy" and inserted "President" in subsecs. (a) and (d).

(4) GREECE.—The President[10] is authorized to transfer to the Government of Greece the "KNOX" class frigate CONNOLE (FF 1056). Such transfer shall be on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j).

(5) MEXICO.—The President[10] is authorized to transfer to the Government of Mexico the "NEWPORT" class tank landing ship NEWPORT (LST 1179) and the "KNOX" class frigate WHIPPLE (FF 1062). Such transfers shall be on a sale basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761).

(6) POLAND.—The President[10] is authorized to transfer to the Government of Poland the "OLIVER HAZARD PERRY" class guided missile frigate CLARK (FFG 11). Such transfer shall be on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j).

(7) TAIWAN.—The President[10] is authorized to transfer to the Taipei Economic and Cultural Representative Office in the United States (which is the Taiwan instrumentality designated pursuant to section 10(a) of the Taiwan Relations Act) the "NEWPORT" class tank landing ship SCHENECTADY (LST 1185). Such transfer shall be on a sale basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761).

(8) THAILAND.—The President[10] is authorized to transfer to the Government of Thailand the "KNOX" class frigate TRUETT (FF 1095). Such transfer shall be on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j).

(9) TURKEY.—The President[10] is authorized to transfer to the Government of Turkey the "OLIVER HAZARD PERRY" class guided missile frigates FLATLEY (FFG 21) and JOHN A. MOORE (FFG 19). Such transfers shall be on a sale basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761).

(b)[11] COSTS OF TRANSFERS.—Any expense of the United States in connection with a transfer authorized by subsection (a) shall be charged to the recipient.

(c)[11] REPAIR AND REFURBISHMENT IN UNITED STATES SHIPYARDS.—To the maximum extent practicable, the President[10] shall require, as a condition of the transfer of a vessel under subsection (a), that the country to which the vessel is transferred have such repair or refurbishment of the vessel as is needed, before the vessel joins the naval forces of that country, performed at a shipyard located in the United States, including a United States Navy shipyard.

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[11] Sec. 1271(b) Security Assistance Act of 1999 (title XII of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2001 and 2001 (enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536)), struck out subsec. (b) and redesignated former subsecs. (c) through (e) as subsecs. (b) through (d), respectively. Former subsec. (b) had provided as follows:

"(b) INAPPLICABILITY OF AGGREGATE ANNUAL LIMITATION ON VALUE OF TRANSFERRED EXCESS DEFENSE ARTICLES.—The value of naval vessels authorized by subsection (a) to be transferred on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) shall not be included in the aggregate annual value of transferred excess defense articles which is subject to the aggregate annual limitation set forth in subsection (g) of that section.".

(d)[11] EXPIRATION OF AUTHORITY.—The authority granted by subsection (a) shall expire at the end of the two-year period beginning on the date of the enactment of this Act.

SUBTITLE C—SUPPORT FOR CIVILIAN LAW ENFORCEMENT AND COUNTER DRUG ACTIVITIES

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SEC. 1023.[12] MILITARY ASSISTANCE TO CIVIL AUTHORITIES TO RESPOND TO ACT OR THREAT OF TERRORISM.

(a) AUTHORITY TO PROVIDE ASSISTANCE.—The Secretary of Defense, upon the request of the Attorney General, may provide assistance to civil authorities in responding to an act of terrorism or threat of an act of terrorism, including an act of terrorism or threat of an act of terrorism that involves a weapon of mass destruction, within the United States, if the Secretary determines that—

(1) special capabilities and expertise of the Department of Defense are necessary and critical to respond to the act of terrorism or the threat of an act of terrorism; and

(2) the provision of such assistance will not adversely affect the military preparedness of the Armed Forces.

(b) NATURE OF ASSISTANCE.—Assistance provided under subsection (a) may include the deployment of Department of Defense personnel and the use of any Department of Defense resources to the extent and for such period as the Secretary of Defense determines necessary to prepare for, prevent, or respond to an act or threat of an act of terrorism described in that subsection. Actions taken to provide the assistance may include the prepositioning of Department of Defense personnel, equipment, and supplies.

(c) REIMBURSEMENT.—(1) Except as provided in paragraph (2), assistance provided under this section shall be provided on a reimbursable basis. Notwithstanding any other provision of law, the amounts of reimbursement shall be limited to the amounts of the incremental costs incurred by the Department of Defense to provide the assistance.

(2) In extraordinary circumstances, the Secretary of Defense may waive the requirement for reimbursement if the Secretary determines that such a waiver is in the national security interests of the United States and submits to Congress a notification of the determination.

(3) If funds are appropriated for the Department of Justice to cover the costs of responding to an act or threat of an act of terrorism for which assistance is provided under subsection (a), the Attorney General shall reimburse the Department of Defense out of such funds for the costs incurred by the Department in providing the assistance, without regard to whether the assistance was provided on a nonreimbursable basis pursuant to a waiver under paragraph (2).

(d) ANNUAL LIMITATION ON FUNDING.—Not more than $10,000,000 may be obligated to provide assistance under subsection (a) during any fiscal year.

[12] 10 U.S.C. 382 note.

(e) PERSONNEL RESTRICTIONS.—In providing assistance under this section, a member of the Army, Navy, Air Force, or Marine Corps may not, unless otherwise authorized by law—

(1) directly participate in a search, seizure, arrest, or other similar activity; or

(2) collect intelligence for law enforcement purposes.

(f) NONDELEGABILITY OF AUTHORITY.—(1) The Secretary of Defense may not delegate to any other official the authority to make determinations and to authorize assistance under this section.

(2) The Attorney General may not delegate to any other official authority to make a request for assistance under subsection (a).

(g) RELATIONSHIP TO OTHER AUTHORITY.—The authority provided in this section is in addition to any other authority available to the Secretary of Defense, and nothing in this section shall be construed to restrict any authority regarding use of members of the Armed Forces or equipment of the Department of Defense that was in effect before the date of the enactment of this Act.

(h) DEFINITIONS.—In this section:

(1) THREAT OF AN ACT OF TERRORISM.—The term "threat of an act of terrorism" includes any circumstance providing a basis for reasonably anticipating an act of terrorism, as determined by the Secretary of Defense in consultation with the Attorney General and the Secretary of the Treasury.

(2) WEAPON OF MASS DESTRUCTION.—The term "weapon of mass destruction" has the meaning given the term in section 1403 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2302(1)).

(i) DURATION OF AUTHORITY.—The authority provided by this section applies during the period beginning on October 1, 1999, and ending on September 30, 2004.

SEC. 1024.[13] CONDITION ON DEVELOPMENT OF FORWARD OPERATING LOCATIONS FOR UNITED STATES SOUTHERN COMMAND COUNTER-DRUG DETECTION AND MONITORING FLIGHTS.

(a) CONDITION.—Except as provided in subsection (b), none of the funds appropriated or otherwise made available to the Department of Defense for any fiscal year may be obligated or expended for the purpose of improving the physical infrastructure at any proposed forward operating location outside the United States from which the United States Southern Command may conduct counter-drug detection and monitoring flights until a formal agreement regarding the extent and use of, and host nation support for, the forward operating location is executed by both the host nation and the United States.

(b) EXCEPTION.—The limitation in subsection (a) does not apply to an unspecified minor military construction project authorized by section 2805 of title 10, United States Code.

[13] 10 U.S.C. 124 note.

SEC. 1025.[14] ANNUAL REPORT ON UNITED STATES MILITARY ACTIVITIES IN COLOMBIA.

Not later than January 1 of each year, the Secretary of Defense shall submit to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on Armed Services and the Committee on International Relations of the House of Representatives a report detailing the number of members of the United States Armed Forces deployed or otherwise assigned to duty in Colombia at any time during the preceding year, the length and purpose of the deployment or assignment, and the costs and force protection risks associated with such deployments and assignments.

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SEC. 1027. PLAN REGARDING ASSIGNMENT OF MILITARY PERSONNEL TO ASSIST IMMIGRATION AND NATURALIZATION SERVICE AND CUSTOMS SERVICE.

(a) PREPARATION OF PLAN.—(1) The Secretary of Defense shall prepare a plan to assign members of the Army, Navy, Air Force, or Marine Corps to assist the Immigration and Naturalization Service or the United States Customs Service should the President determine, and the Attorney General or the Secretary of the Treasury, as the case may be, certify, that military personnel are required to respond to a threat to national security posed by the entry into the United States of terrorists or drug traffickers.

(2) The Secretary shall ensure that activities proposed to be performed by military personnel under the plan are consistent with section 1385 of title 18, United States Code (popularly known as the Posse Comitatus Act), and shall include in the plan a training program for military personnel who would be assigned to assist Federal law enforcement agencies—

(A) in preventing the entry of terrorists and drug traffickers into the United States; and

(B) in the inspection of cargo, vehicles, and aircraft at points of entry into the United States for weapons of mass destruction, prohibited narcotics, or other terrorist or drug trafficking items.

(b) REPORT ON USE OF MILITARY PERSONNEL TO SUPPORT CIVILIAN LAW ENFORCEMENT.—Not later than May 1, 2000, the Secretary of Defense shall submit to the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate a report containing—

(1) the plan required by subsection (a);

(2) a discussion of the risks and benefits associated with using military personnel to provide the law enforcement support described in subsection (a)(2);

(3) recommendations regarding the functions outlined in the plan most appropriate to be performed by military personnel; and

(4) the total number of active and reserve members, and members of the National Guard whose activities were supported using funds provided under section 112 of title 32,

[14] 10 U.S.C. 113 note.

United States Code, who participated in drug interdiction activities or otherwise provided support for civilian law enforcement during fiscal year 1999.

SUBTITLE D—MISCELLANEOUS REPORT REQUIREMENTS AND REPEALS

SEC. 1031. PRESERVATION OF CERTAIN DEFENSE REPORTING REQUIREMENTS.

Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 (31 U.S.C. 1113 note) does not apply to any report required to be submitted under any of the following provisions of law: * * *[15]

* * * * * * *

SEC. 1035. REPORT ON ASSESSMENTS OF READINESS TO EXECUTE THE NATIONAL MILITARY STRATEGY.

(a) REPORT.—Not later than April 1 each year (but subject to subsection (e)),[16] the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report in unclassified form assessing the effect of continued operations in the Balkans region on—

(1) the ability of the Armed Forces to successfully meet other regional contingencies; and

(2) the readiness of the Armed Forces to execute the National Military Strategy.

(b) MATTERS TO BE INCLUDED.—Each report[17] under subsection (a) shall include the following:

(1) All models used by the Chairman of the Joint Chiefs of Staff to assess the capability of the United States to execute the full range of missions under the National Military Strategy and all other models used by the Armed Forces to assess that capability.

(2) Separate assessments that would result from the use of those models if it were necessary to execute the full range of missions called for under the National Military Strategy under each of the scenarios set forth in subsection (c), including the levels of casualties the United States would be projected to incur.

(3) Assumptions made about the readiness levels of major units included in each such assessment, including equipment, personnel, and training readiness and sustainment ability.

(4) The increasing levels of casualties that would be projected under each such scenario over a range of risks of prosecuting two Major Theater Wars that proceeds from low-moderate risk to moderate-high risk.

(5) An estimate of—

(A) the total resources needed to attain a moderate-high risk under those scenarios;

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[15] For this and other Public Laws relating to recent efforts to reduce or retain reporting requirements, see *Legislation on Foreign Relations Through 2004*, vol. IV.

[16] Sec. 1211(1) of Public Law 106–398 (114 Stat. 1654A–805) struck out "Not later than 180 days after the date of the enactment of this Act," and inserted in lieu thereof "Not later than April 1 each year (but subject to subsection (e)),".

[17] Sec. 1211(2) of Public Law 106–398 (114 Stat. 1654A–806) struck out "The report" and inserted in lieu thereof "Each report".

(B) the total resources needed to attain a low-moderate risk under those scenarios; and

(C) the incremental resources needed to decrease the level of risk from moderate-high to low-moderate.

(c) SCENARIOS TO BE USED.—The scenarios to be used for purposes of paragraphs (1), (2), and (3) of subsection (b) are the following:

(1) That while the Armed Forces are engaged in operations at the level of the operations ongoing as of the date of the enactment of this Act, international armed conflict begins—

(A) on the Korean peninsula; and

(B) first on the Korean peninsula and then 45 days later in Southwest Asia.

(2) That while the Armed Forces are engaged in operations at the peak level reached during Operation Allied Force against the Federal Republic of Yugoslavia, international armed conflict begins—

(A) on the Korean peninsula; and

(B) first on the Korean peninsula and then 45 days later in Southwest Asia.

(d) CONSULTATION.—In preparing a report[18] under this section, the Secretary of Defense shall consult with the Chairman of the Joint Chiefs of Staff, the commanders of the unified commands, the Secretaries of the military departments, and the heads of the combat support agencies and other such entities within the Department of Defense as the Secretary considers necessary.

(e)[19] TERMINATION WHEN UNITED STATES MILITARY OPERATIONS END.—(1) No report is required under this section after United States military operations in the Balkans region have ended.

(2) After the requirement for an annual report under this section is terminated by operation of paragraph (1), but not later than the latest date on which the next annual report under this section would, except for paragraph (1), otherwise be due, the Secretary of Defense shall transmit to Congress a notification of the termination of the reporting requirement.

SEC. 1036. REPORT ON RAPID ASSESSMENT AND INITIAL DETECTION TEAMS.

(a) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the Department's plans for establishing and deploying Rapid Assessment and Initial Detection (RAID) teams for responses to incidents involving a weapon of mass destruction. The report shall include the following:

(1) A description of the capabilities of a RAID team and a comparison of those capabilities to the capabilities of other Federal, State, and local WMD responders.

(2) An assessment of the manner in which a RAID team complements the mission, functions, and capabilities of other Federal, State, and local WMD responders.

[18] Sec. 1211(3) of Public Law 106–398 (114 Stat. 1654A–806) struck out "the report" and inserted in lieu thereof "a report".

[19] Sec. 1211(4) of Public Law 106–398 (114 Stat. 1654A–806) added subsec. (e).

(3) The Department's plan for conducting realistic exercises involving RAID teams, including exercises with other Federal, State, and local WMD responders.

(4) A description of the command and control relationships between the RAID teams and Federal, State, and local WMD responders.

(5) An assessment of the degree to which States have integrated, or are planning to integrate, RAID teams into other-than-weapon-of-mass-destruction missions of State or local WMD responders.

(6) A specific description and analysis of the procedures that have been established or agreed to by States for the use in one State of a RAID team that is based in another State.

(7) An identification of those States where the deployment of out-of-State RAID teams is not governed by existing interstate compacts.

(8) An assessment of the Department's progress in developing an appropriate national level compact for interstate sharing of resources that would facilitate consistent and effective procedures for the use of out-of-State RAID teams.

(9) An assessment of the measures that will be taken to recruit, train, maintain the proficiency of, and retain members of the RAID teams, to include those measures to provide for their career progression.

(b) DEFINITIONS.—In this section:

(1) The term "Rapid Assessment and Initial Detection team" or "RAID team" refers to a military unit comprised of Active Guard and Reserve personnel organized, trained, and equipped to conduct domestic missions in the United States in response to the use of, or threatened use of, a weapon of mass destruction.

(2) The term "WMD responder" means an organization responsible for responding to an incident involving a weapon of mass destruction.

(3) The term "weapon of mass destruction" has the meaning given that term in section 1403(1) of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2302(1)).

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SEC. 1038. ANALYSIS OF RELATIONSHIP BETWEEN THREATS AND BUDGET SUBMISSION FOR FISCAL YEAR 2001.

(a) REQUIREMENT FOR REPORT.—The Secretary of Defense shall submit to the congressional defense committees, on the date that the President submits the budget for fiscal year 2001 to Congress under section 1105(a) of title 31, United States Code, a report on the relationship between the budget proposed for budget function 050 (National Defense) for that fiscal year and the then-current and emerging threats to the national security interests of the United States identified in the annual national security strategy report required under section 108 of the National Security Act of 1947 (50 U.S.C. 404a). The report shall be prepared in coordination with the Chairman of the Joint Chiefs of Staff and the Director of Central Intelligence.

(b) CONTENT.—The report shall contain the following:

(1) A detailed description of the threats referred to in subsection (a).

(2) An analysis of those threats in terms of the probability that an attack or other threat event will actually occur, the military challenge posed by those threats, and the potential damage that those threats could have to the national security interests of the United States.

(3) An analysis of the allocation of funds in the fiscal year 2001 budget and the future-years defense program that addresses each of those threats.

(4) A justification for each major defense acquisition program (as defined in section 2430 of title 10, United States Code) that is provided for in the budget in light of the description and analyses set forth in the report pursuant to this subsection.

(c) FORM OF REPORT.—The report shall be submitted in unclassified form, but may also be submitted in classified form if necessary.

SEC. 1039.[20] REPORT ON NATO DEFENSE CAPABILITIES INITIATIVE.

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

(1) At the meeting of the North Atlantic Council held in Washington, DC, in April 1999, the NATO Heads of State and Governments launched a Defense Capabilities Initiative.

(2) The Defense Capabilities Initiative is designed to improve the defense capabilities of the individual nations of the NATO Alliance to ensure the effectiveness of future operations across the full spectrum of Alliance missions in the present and foreseeable security environment.

(3) Under the Defense Capabilities Initiative, special focus will be given to improving interoperability among Alliance forces and to increasing defense capabilities through improvements in the deployability and mobility of Alliance forces, the sustainability and logistics of those forces, the survivability and effective engagement capability of those forces, and command and control and information systems.

(4) The successful implementation of the Defense Capabilities Initiative will serve to enable all members of the Alliance to make a more equitable contribution to the full spectrum of Alliance missions, thereby increasing burdensharing within the Alliance and enhancing the ability of European members of the Alliance to undertake operations pursuant to the European Security and Defense Identity within the Alliance.

(b)[21] * * * [Repealed—2003]

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SUBTITLE E—INFORMATION SECURITY

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[20] 10 U.S.C. 113 note.

[21] Sec. 1031(h)(3) of Public Law 108–136 (117 Stat. 1605) repealed subsec. (b), which had required an annual report of the Secretary of Defense on implementation of the Defense Capabilities Initiative by the nations of the NATO Alliance.

SEC. 1042. NOTICE TO CONGRESSIONAL COMMITTEES OF CERTAIN SECURITY AND COUNTERINTELLIGENCE FAILURES WITHIN DEFENSE PROGRAMS.

(a) IN GENERAL.—Chapter 161 of title 10, United States Code, is amended by adding at the end the following new section: * * *[22]

SUBTITLE F—MEMORIAL OBJECTS AND COMMEMORATIONS

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SEC. 1053.[23] COMMEMORATION OF THE VICTORY OF FREEDOM IN THE COLD WAR.

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

(1) The Cold War between the United States and its allies and the former Union of Soviet Socialist Republics and its allies was the longest and most costly struggle for democracy and freedom in the history of mankind.

(2) Whether millions of people all over the world would live in freedom hinged on the outcome of the Cold War.

(3) Democratic countries bore the burden of the struggle and paid the costs in order to preserve and promote democracy and freedom.

(4) The Armed Forces and the taxpayers of the United States bore the greatest portion of that burden and struggle in order to protect those principles.

(5) Tens of thousands of United States soldiers, sailors, airmen, and[24] Marines paid the ultimate price during the Cold War in order to preserve the freedoms and liberties enjoyed in democratic countries.

(6) The Berlin Wall erected in Berlin, Germany, epitomized the totalitarianism that the United States struggled to eradicate during the Cold War.

(7) The fall of the Berlin Wall on November 9, 1989, was a major event of the Cold War.

(8) The Soviet Union collapsed on December 25, 1991.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the President should issue a proclamation calling on the people of the United States to observe the victory in the Cold War with appropriate ceremonies and activities.

(c) PARTICIPATION OF ARMED FORCES IN CELEBRATION OF END OF COLD WAR.—(1) Subject to paragraphs (2), (3), and (4), amounts authorized to be appropriated by section 301 may be available for costs of the Armed Forces in participating in a celebration of the end of the Cold War to be held in Washington, District of Columbia.

(2) The total amount of funds available under paragraph (1) for the purpose set forth in that paragraph shall not exceed $5,000,000.

(3) The Secretary of Defense may accept contributions from the private sector for the purpose of reducing the costs of the Armed Forces described in paragraph (1). The amount of funds available under paragraph (1) for the purpose set forth in that paragraph

[22] See 10 U.S.C. 2723.
[23] 10 U.S.C. 113 note.
[24] Sec. 1048(g)(7) of Public Law 107–107 (115 Stat. 1228) inserted "and" before "Marines".

shall be reduced by an amount equal to the amount of contributions accepted by the Secretary under the preceding sentence.

(4) The funding authorized in paragraph (1) shall not be available until 30 days after the date upon which the plan required by subsection (d) is submitted.

(d) REPORT.—(1) The President shall transmit to Congress—

(A) a report on the content of the proclamation referred to in subsection (b); and

(B) a plan for appropriate ceremonies and activities.

(2) The plan submitted under paragraph (1) shall include the following:

(A) A discussion of the content, location, date, and time of each ceremony and activity included in the plan.

(B) The funding allocated to support those ceremonies and activities.

(C) The organizations and individuals consulted while developing the plan for those ceremonies and activities.

(D) A list of private sector organizations and individuals that are expected to participate in each ceremony and activity.

(E) A list of local, State, and Federal agencies that are expected to participate in each ceremony and activity.

(e) COMMISSION ON VICTORY IN THE COLD WAR.—(1) There is hereby established a commission to be known as the "Commission on Victory in the Cold War".

(2) The Commission shall be composed of twelve members, as follows:

(A) Two shall be appointed by the President.

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

(C) Two shall be appointed by the minority leader of the House of Representatives.

(D) Three shall be appointed by the majority leader of the Senate.

(E) Two shall be appointed by the minority leader of the Senate.

(3) The Commission shall review and make recommendations regarding the celebration of the victory in the Cold War, to include the date of the celebration, usage of facilities, participation of the Armed Forces, and expenditure of funds.

(4) The Secretary shall—

(A) consult with the Commission on matters relating to the celebration of the victory in the Cold War;

(B) reimburse Commission members for expenses relating to participation of Commission members in Commission activities from funds made available under subsection (c); and

(C) provide the Commission with administrative support.

(5) The Commission shall be co-chaired by two members as follows:

(A) One selected by and from among those appointed pursuant to subparagraphs (A), (C), and (E) of paragraph (2).

(B) One selected by and from among those appointed pursuant to subparagraphs (B) and (D) of paragraph (2).

SUBTITLE G—OTHER MATTERS

SEC. 1061. DEFENSE SCIENCE BOARD TASK FORCE ON USE OF TELEVISION AND RADIO AS A PROPAGANDA INSTRUMENT IN TIME OF MILITARY CONFLICT.

(a) ESTABLISHMENT OF TASK FORCE.—The Secretary of Defense shall establish a task force of the Defense Science Board to examine—

(1) the use of radio and television broadcasting as a propaganda instrument in time of military conflict; and

(2) the adequacy of the capabilities of the Armed Forces to make such uses of radio and television during conflicts such as the conflict in the Federal Republic of Yugoslavia in the spring of 1999.

(b) DUTIES OF TASK FORCE.—The task force shall assess and develop recommendations as to the appropriate capabilities, if any, that the Armed Forces should have to broadcast radio and television into a region in time of military conflict so as to ensure that the general public in that region is exposed to the facts of the conflict. In making that assessment and developing those recommendations, the task force shall review the following:

(1) The capabilities of the Armed Forces to develop programming and to make broadcasts that can reach a large segment of the general public in a country such as the Federal Republic of Yugoslavia.

(2) The potential of various Department of Defense airborne or land-based mechanisms to have capabilities described in paragraph (1), including improvements to the EC–130 Commando Solo aircraft and the use of other airborne platforms, unmanned aerial vehicles, and land-based transmitters in conjunction with satellites.

(3) Other issues relating to the use of television and radio as a propaganda instrument in time of conflict.

(c) REPORT.—The task force shall submit to the Secretary of Defense a report containing its assessments and recommendations under subsection (b) not later than February 1, 2000. The Secretary shall submit the report, together with the comments and recommendations of the Secretary, to the congressional defense committees not later than March 1, 2000.

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SEC. 1064. PERFORMANCE OF THREAT AND RISK ASSESSMENTS.

Section 1404 of the Defense Against Weapons of Mass Destruction Act of 1998 (title XIV of Public Law 105–261; 50 U.S.C. 2301 note) is amended to read as follows: * * *[25]

SEC. 1065. CHEMICAL AGENTS USED FOR DEFENSIVE TRAINING.

(a) AUTHORITY TO TRANSFER AGENTS.—(1) The Secretary of Defense may transfer to the Attorney General, in accordance with the Chemical Weapons Convention, quantities of lethal chemical agents required to support training at the Center for Domestic Preparedness in Fort McClellan, Alabama. The quantity of lethal chemical agents transferred under this section may not exceed that required

[25] For amended text, see *Legislation on Foreign Relations Through 2004*, vol. II.

to support training for emergency first-response personnel in addressing the health, safety, and law enforcement concerns associated with potential terrorist incidents that might involve the use of lethal chemical weapons or agents, or other training designated by the Attorney General.

(2) The Secretary of Defense, in coordination with the Attorney General, shall determine the amount of lethal chemical agents that shall be transferred under this section. Such amount shall be transferred from quantities of lethal chemical agents that are produced, acquired, or retained by the Department of Defense.

(3) The Secretary of Defense may not transfer lethal chemical agents under this section until—

(A) the Center referred to in paragraph (1) is transferred from the Department of Defense to the Department of Justice; and

(B) the Secretary determines that the Attorney General is prepared to receive such agents.

(4) To carry out the training described in paragraph (1) and other defensive training not prohibited by the Chemical Weapons Convention, the Secretary of Defense may transport lethal chemical agents from a Department of Defense facility in one State to a Department of Justice or Department of Defense facility in another State.

(5) Quantities of lethal chemical agents transferred under this section shall meet all applicable requirements for transportation, storage, treatment, and disposal of such agents and for any resulting hazardous waste products.

(b) ANNUAL REPORT.—The Secretary of Defense, in consultation with the Attorney General, shall report annually to Congress regarding the disposition of lethal chemical agents transferred under this section.

(c) NON-INTERFERENCE WITH TREATY OBLIGATIONS.—Nothing in this section may be construed as interfering with United States treaty obligations under the Chemical Weapons Convention.

(d) CHEMICAL WEAPONS CONVENTION DEFINED.—In this section, the term "Chemical Weapons Convention" means the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, opened for signature on January 13, 1993.

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TITLE XII—MATTERS RELATING TO OTHER NATIONS

Subtitle A—Matters Relating to the People's Republic of China

Sec. 1201. Limitation on military-to-military exchanges and contacts with Chinese People's Liberation Army.
Sec. 1202. Annual report on military power of the People's Republic of China.

Subtitle B—Matters Relating to the Balkans

Sec. 1211. Department of Defense report on the conduct of Operation Allied Force and associated relief operations.
Sec. 1212. Sense of Congress regarding the need for vigorous prosecution of war crimes, genocide, and crimes against humanity in the former Republic of Yugoslavia.

Subtitle C—Matters Relating to NATO and Other Allies

Sec. 1221. Legal effect of the new strategic concept of NATO.
Sec. 1222. Report on allied capabilities to contribute to major theater wars.
Sec. 1223. Attendance at professional military education schools by military personnel of the new member nations of NATO.

Subtitle D—Other Matters

Sec. 1231. Multinational economic embargoes against governments in armed conflict with the United States.
Sec. 1232. Limitation on deployment of Armed Forces in Haiti during fiscal year 2000 and congressional notice of deployments to Haiti.
Sec. 1233. Report on the security situation on the Korean peninsula.
Sec. 1234. Sense of Congress regarding the continuation of sanctions against Libya.
Sec. 1235. Sense of Congress and report on disengaging from noncritical overseas missions involving United States combat forces.

SUBTITLE A—MATTERS RELATING TO THE PEOPLE'S REPUBLIC OF CHINA

SEC. 1201.[26] LIMITATION ON MILITARY-TO-MILITARY EXCHANGES AND CONTACTS WITH CHINESE PEOPLE'S LIBERATION ARMY.

(a) LIMITATION.—The Secretary of Defense may not authorize any military-to-military exchange or contact described in subsection (b) to be conducted by the armed forces with representatives of the People's Liberation Army of the People's Republic of China if that exchange or contact would create a national security risk due to an inappropriate exposure specified in subsection (b).

(b) COVERED EXCHANGES AND CONTACTS.—Subsection (a) applies to any military-to-military exchange or contact that includes inappropriate exposure to any of the following:

(1) Force projection operations.
(2) Nuclear operations.
(3) Advanced combined-arms and joint combat operations.
(4) Advanced logistical operations.
(5) Chemical and biological defense and other capabilities related to weapons of mass destruction.
(6) Surveillance and reconnaissance operations.
(7) Joint warfighting experiments and other activities related to a transformation in warfare.
(8) Military space operations.
(9) Other advanced capabilities of the Armed Forces.
(10) Arms sales or military-related technology transfers.
(11) Release of classified or restricted information.
(12) Access to a Department of Defense laboratory.

(c) EXCEPTIONS.—Subsection (a) does not apply to any search-and-rescue or humanitarian operation or exercise.

(d) ANNUAL CERTIFICATION BY SECRETARY.—The Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives, not later than December 31 each year, a certification in writing as to whether or not any military-to-military exchange or contact during that calendar year was conducted in violation of subsection (a).

[26] 10 U.S.C. 168 note.

(e) ANNUAL REPORT.—Not later than March 31 each year beginning in 2001, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report providing the Secretary's assessment of the current state of military-to-military exchanges and contacts with the People's Liberation Army. The report shall include the following:

(1) A summary of all such military-to-military contacts during the period since the last such report, including a summary of topics discussed and questions asked by the Chinese participants in those contacts.

(2) A description of the military-to-military exchanges and contacts scheduled for the next 12-month period and a plan for future contacts and exchanges.

(3) The Secretary's assessment of the benefits the Chinese expect to gain from those military-to-military exchanges and contacts.

(4) The Secretary's assessment of the benefits the Department of Defense expects to gain from those military-to-military exchanges and contacts.

(5) The Secretary's assessment of how military-to-military exchanges and contacts with the People's Liberation Army fit into the larger security relationship between the United States and the People's Republic of China.

(f) REPORT OF PAST MILITARY-TO-MILITARY EXCHANGES AND CONTACTS WITH THE PRC.—Not later than March 31, 2000, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on past military-to-military exchanges and contacts between the United States and the People's Republic of China. The report shall be unclassified, but may contain a classified annex, and shall include the following:

(1) A list of the general and flag grade officers of the People's Liberation Army who have visited United States military installations since January 1, 1993.

(2) The itinerary of the visits referred to in paragraph (2), including the installations visited, the duration of the visits, and the activities conducted during the visits.

(3) The involvement, if any, of the general and flag officers referred to in paragraph (1) in the Tiananmen Square massacre of June 1989.

(4) A list of the facilities in the People's Republic of China that United States military officers have visited as a result of any military-to-military exchange or contact program between the United States and the People's Republic of China since January 1, 1993.

(5) A list of facilities in the People's Republic of China that have been the subject of a requested visit by the Department of Defense that has been denied by People's Republic of China authorities.

(6) A list of facilities in the United States that have been the subject of a requested visit by the People's Liberation Army that has been denied by the United States.

(7) Any official documentation (such as memoranda for the record, after-action reports, and final itineraries) and all receipts for expenses over $1,000, concerning military-to-military exchanges or contacts between the United States and the People's Republic of China in 1999.

(8) A description of military-to-military exchanges or contacts between the United States and the People's Republic of China scheduled for 2000.

(9) An assessment regarding whether or not any People's Republic of China military officials have been shown classified material as a result of military-to-military exchanges or contacts between the United States and the People's Republic of China.

SEC. 1202.[27] ANNUAL REPORT ON MILITARY POWER OF THE PEOPLE'S REPUBLIC OF CHINA.

(a) ANNUAL REPORT.—Not later than March 1 each year, the Secretary of Defense shall submit to the specified congressional committees a report, in both classified and unclassified form, on the current and future military strategy of the People's Republic of China. The report shall address the current and probable future course of military-technological development on the People's Liberation Army and the tenets and probable development of Chinese grand strategy, security strategy, and military strategy, and of military organizations and operational concepts, through the next 20 years.

(b) MATTERS TO BE INCLUDED.—Each report under this section shall include analyses and forecasts of the following:

(1) The goals of Chinese grand strategy, security strategy, and military strategy.

(2) Trends in Chinese strategy that would be designed to establish the People's Republic of China as the leading political power in the Asia-Pacific region and as a political and military presence in other regions of the world.

(3) The security situation in the Taiwan Strait.

(4) Chinese strategy regarding Taiwan.

(5) The size, location, and capabilities of Chinese strategic, land, sea, and air forces, including detailed analysis of those forces facing Taiwan.

(6) Developments in Chinese military doctrine, focusing on (but not limited to) efforts to exploit a transformation in military affairs or to conduct preemptive strikes.

(7) Efforts, including technology transfers and espionage, by the People's Republic of China to develop, acquire, or gain access to information, communication, space and other advanced technologies that would enhance military capabilities.

(8) An assessment of any challenges during the preceding year to the deterrent forces of the Republic of China on Taiwan, consistent with the commitments made by the United States in the Taiwan Relations Act (Public Law 96–8).

(c) SPECIFIED CONGRESSIONAL COMMITTEES.—For purposes of this section, the term "specified congressional committees" means the following:

[27] 10 U.S.C. 113 note.

(1) The Committee on Armed Services and the Committee on Foreign Relations of the Senate.

(2) The Committee on Armed Services and the Committee on International Relations of the House of Representatives.

(d)[28] REPORT ON SIGNIFICANT SALES AND TRANSFERS TO CHINA.—(1) The report to be submitted under this section not later than March 1, 2002, shall include in a separate section a report describing any significant sale or transfer of military hardware, expertise, and technology to the People's Republic of China. The report shall set forth the history of such sales and transfers since 1995, forecast possible future sales and transfers, and address the implications of those sales and transfers for the security of the United States and its friends and allies in Asia.

(2) The report shall include analysis and forecasts of the following matters related to military cooperation between selling states and the People's Republic of China:

(A) The extent in each selling state of government knowledge, cooperation, or condoning of sales or transfers of military hardware, expertise, or technology to the People's Republic of China.

(B) An itemization of significant sales and transfers of military hardware, expertise, or technology from each selling state to the People's Republic of China that have taken place since 1995, with a particular focus on command, control, communications, and intelligence systems.

(C) Significant assistance by any selling state to key research and development programs of China, including programs for development of weapons of mass destruction and delivery vehicles for such weapons, programs for development of advanced conventional weapons, and programs for development of unconventional weapons.

(D) The extent to which arms sales by any selling state to the People's Republic of China are a source of funds for military research and development or procurement programs in the selling state.

(3) The report under paragraph (1) shall include, with respect to each area of analysis and forecasts specified in paragraph (2)—

(A) an assessment of the military effects of such sales or transfers to entities in the People's Republic of China;

(B) an assessment of the ability of the People's Liberation Army to assimilate such sales or transfers, mass produce new equipment, or develop doctrine for use; and

(C) the potential threat of developments related to such effects on the security interests of the United States and its friends and allies in Asia.

[28] Sec. 1221 of Public Law 107–107 (115 Stat. 1252) added subsec. (d).

SUBTITLE B—MATTERS RELATING TO THE BALKANS

SEC. 1211. DEPARTMENT OF DEFENSE REPORT ON THE CONDUCT OF OPERATION ALLIED FORCE AND ASSOCIATED RELIEF OPERATIONS.

(a) REPORT REQUIRED.—(1) Not later than January 31, 2000, the Secretary of Defense shall submit to the congressional defense committees a report on the conduct of military operations conducted as part of Operation Allied Force and relief operations associated with that operation. The Secretary shall submit to those committees a preliminary report on the conduct of those operations not later than October 15, 1999. The report (including the preliminary report) shall be prepared in consultation with the Chairman of the Joint Chiefs of Staff and the Commander in Chief, United States European Command.

(2) In this section, the term "Operation Allied Force" means operations of the North Atlantic Treaty Organization (NATO) conducted against the Federal Republic of Yugoslavia (Serbia and Montenegro) during the period beginning on March 24, 1999, and ending with the suspension of bombing operations on June 10, 1999, to resolve the conflict with respect to Kosovo.

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

(1) The national security interests of the United States that were threatened by the deteriorating political and military situation in the Province of Kosovo, Republic of Serbia, in the country of the Federal Republic of Yugoslavia (Serbia and Montenegro).

(2) The factors leading to the decision by the United States and NATO to issue an ultimatum in October 1998 that force would be used against the Federal Republic of Yugoslavia unless certain conditions were met, and the planning of a military operation to execute that ultimatum.

(3) The political and military objectives of the United States and NATO in the conflict with the Federal Republic of Yugoslavia.

(4) The military strategy of the United States and NATO to achieve those political and military objectives.

(5) An analysis of the decisionmaking process of NATO and the effect of that decisionmaking process on the conduct of military operations.

(6) An analysis of the decision not to include a ground component in Operation Allied Force (to include a detailed explanation of the political and military factors involved in that decision) and the effect of that decision on the conduct of military operations.

(7) The deployment of United States forces and the transportation of supplies to the theater of operations, including an assessment of airlift and sealift, with a specific assessment of the deployment of Task Force Hawk.

(8) The conduct of military operations, including a specific assessment of each of the following:

(A) The effects of the graduated, incremental pace of the military operations.

(B) The process for identifying, nominating, selecting and verifying targets to be attacked during Operation Allied Force, including an analysis of the factors leading to the bombing of the Embassy of the People's Republic of China in Belgrade.

(C) The loss of aircraft and the accuracy of bombing operations.

(D) The decoy and deception operations and counterintelligence techniques used by the Yugoslav military.

(E) The use of high-demand, low-density assets in Operation Allied Force in terms of inventory, capabilities, deficiencies, and ability to provide logistical support.

(F) A comparison of the military capabilities of the United States and of the allied participants in Operation Allied Force.

(G) Communications and operational security of NATO forces.

(H) The effect of adverse weather on the performance of weapons and supporting systems.

(I) The decision not to use in the air campaign the Apache attack helicopters deployed as part of Task Force Hawk.

(9) The conduct of relief operations by United States and allied military forces and the effect of those relief operations on military operations.

(10) The ability of the United States during Operation Allied Force to conduct other operations required by the national defense strategy, including an analysis of the transfer of operational assets from other United States unified commands to the European Command for participation in Operation Allied Force and the effect of those transfers on the readiness, warfighting capability, and deterrence posture of those commands.

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

(12) The effectiveness of intelligence, surveillance, and reconnaissance support to operational forces, including an assessment of battle damage assessment of fixed and mobile targets prosecuted during the air campaign, estimates of Yugoslav forces and equipment in Kosovo, and information related to Kosovar refugees and internally displaced persons.

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

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

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

(C) the compatibility of command, control, and communications equipment and the ability of United States aircraft to operate with aircraft of other nations without degradation of capabilities or protection of United States forces.

(14) The scope of logistics support, including support from other nations, with particular emphasis on the availability and adequacy of foreign air bases.

(15) The role of contractors to provide support and maintenance in the theater of operations.

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

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

(18) The effectiveness of reserve component forces, including their use and performance in the theater of operations.

(19) A legal analysis, including (A) the legal basis for the decision by NATO to use force, and (B) the role of the law of armed conflict in the planning and execution of military operations by the United States and the other NATO member nations.

(20) The cost to the Department of Defense of Operation Allied Force and associated relief operations, together with the Secretary's plan to refurbish or replace ordnance and other military equipment expended or destroyed during the operations.

(21) A description of the most critical lessons learned that could lead to long-term doctrinal, organizational, and technological changes.

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

SEC. 1212. SENSE OF CONGRESS REGARDING THE NEED FOR VIGOROUS PROSECUTION OF WAR CRIMES, GENOCIDE, AND CRIMES AGAINST HUMANITY IN THE FORMER REPUBLIC OF YUGOSLAVIA.

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

(1) The United Nations Security Council created the International Criminal Tribunal for the former Yugoslavia (in this section referred to as the "ICTY") by resolution on May 25, 1993.

(2) Although the ICTY has indicted 89 people since its creation, those indictments have only resulted in the trial and conviction of 8 criminals.

(3) The ICTY has jurisdiction to investigate grave breaches of the 1949 Geneva Conventions (Article 2), violations of the laws or customs of war (Article 3), genocide (Article 4), and crimes against humanity (Article 5).

(4) The Chief Prosecutor of the ICTY, Justice Louise Arbour, stated on July 7, 1998, to the Contact Group for the former Yugoslavia, that "[t]he Prosecutor believes that the nature and scale of the fighting indicate that an 'armed conflict', within

the meaning of international law, exists in Kosovo. As a consequence, she intends to bring charges for crimes against humanity or war crimes, if evidence of such crimes is established".

(5) Reports from Kosovar Albanian refugees provide detailed accounts of systematic efforts to displace the entire Muslim population of Kosovo.

(6) In furtherance of this plan, Serbian troops, police, and paramilitary forces have engaged in detention and summary execution of men of all ages, wanton destruction of civilian housing, forcible expulsions, mass executions in at least 60 villages and towns, as well as widespread rape of women and young girls.

(7) These reports of atrocities provide prima facie evidence of war crimes and crimes against humanity, as well as possible genocide.

(8) Any criminal investigation is best served by the depositions and interviews of witnesses as soon after the commission of the crime as possible.

(9) The indictment, arrest, and trial of war criminals would provide a significant deterrent to further atrocities.

(10) The ICTY has issued 14 international warrants for war crimes suspects that have yet to be served, despite knowledge of the suspects' whereabouts.

(11) Vigorous prosecution of war crimes after the conflict in Bosnia may have prevented the ongoing atrocities in Kosovo.

(12) Investigative reporters have identified specific documentary evidence implicating the Serbian leadership in the commission of war crimes.

(13) NATO forces and forensic teams deployed in Kosovo have uncovered physical evidence of war crimes, including mass graves.

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

(1) the United States, in coordination with other United Nations member states, should provide sufficient resources for an expeditious and thorough investigation of allegations of the atrocities and war crimes committed in Kosovo;

(2) the United States, through its intelligence services, should provide all possible cooperation in the gathering of evidence of sufficient specificity and credibility to secure the indictment of those responsible for the commission of war crimes, crimes against humanity, and genocide in the former Yugoslavia;

(3) where evidence warrants, indictments for war crimes, crimes against humanity, and genocide should be issued against suspects regardless of their position within the Serbian leadership;

(4) the United States and all nations have an obligation to honor arrest warrants issued by the ICTY and should use all appropriate means to apprehend and bring to justice through the ICTY individuals who are already under indictment;

(5) any final settlement regarding Kosovo should not bar the indictment, apprehension, or prosecution of persons accused of

war crimes, crimes against humanity, or genocide committed during operations in Kosovo; and

(6) President Slobodan Milosevic should be held accountable for his actions while President of the Federal Republic of Yugoslavia or President of the Republic of Serbia in initiating four armed conflicts and taking actions leading to the deaths of tens of thousands of people and responsibility for murder, rape, terrorism, destruction, and ethnic cleansing.

SUBTITLE C—MATTERS RELATING TO NATO AND OTHER ALLIES

SEC. 1221. LEGAL EFFECT OF THE NEW STRATEGIC CONCEPT OF NATO.

(a) CERTIFICATION REQUIRED.—Not later than 30 days after the date of the enactment of this Act, the President shall determine and certify to the Congress whether or not the new Strategic Concept of NATO imposes any new commitment or obligation on the United States.

(b) SENSE OF CONGRESS.—It is the sense of Congress that, if the President certifies under subsection (a) that the new Strategic Concept of NATO imposes any new commitment or obligation on the United States, the President should submit the new Strategic Concept of NATO to the Senate as a treaty for the Senate's advice and consent to ratification under article II, section 2, clause 2 of the Constitution.

(c) REPORT.—Together with the certification made under subsection (a), the President shall submit to the Congress a report containing an analysis of the potential threats facing the North Atlantic Treaty Organization in the first decade of the next millennium, with particular reference to those threats facing a member nation, or several member nations, where the commitment of NATO forces will be "out of area" or beyond the borders of NATO member nations.

(d) DEFINITION.—For the purposes of this section, the term "new Strategic Concept of NATO" means the document approved by the Heads of State and Government participating in the meeting of the North Atlantic Council in Washington, DC, on April 23 and 24, 1999.

SEC. 1222. REPORT ON ALLIED CAPABILITIES TO CONTRIBUTE TO MAJOR THEATER WARS.

(a) REPORT.—The Secretary of Defense shall prepare a report, in both classified and unclassified form, on the current military capabilities of allied nations to contribute to the successful conduct of the major theater wars as anticipated in the Quadrennial Defense Review of 1997.

(b) MATTERS TO BE INCLUDED.—The report shall set forth the following:

(1) The identity, size, structure, and capabilities of the armed forces of the allies expected to participate in the major theater wars anticipated in the Quadrennial Defense Review.

(2) The priority accorded in the national military strategies and defense programs of the anticipated allies to contributing forces to United States-led coalitions in such major theater wars.

(3) The missions currently being conducted by the armed forces of the anticipated allies and the ability of the allied armed forces to conduct simultaneously their current missions and those anticipated in the event of major theater war.

(4) Any Department of Defense assumptions about the ability of allied armed forces to deploy or redeploy from their current missions in the event of a major theater war, including any role United States Armed Forces would play in assisting and sustaining such a deployment or redeployment.

(5) Any Department of Defense assumptions about the combat missions to be executed by such allied forces in the event of major theater war.

(6) The readiness of allied armed forces to execute any such missions.

(7) Any risks to the successful execution of the military missions called for under the National Military Strategy of the United States related to the capabilities of allied armed forces.

(c) SUBMISSION OF REPORT.—The report shall be submitted to Congress not later than June 1, 2000.

SEC. 1223.[29] ATTENDANCE AT PROFESSIONAL MILITARY EDUCATION SCHOOLS BY MILITARY PERSONNEL OF THE NEW MEMBER NATIONS OF NATO.

(a) FINDING.—Congress finds that it is in the national interest of the United States to fully integrate Poland, Hungary, and the Czech Republic (the new member nations of the North Atlantic Treaty Organization) into the NATO alliance as quickly as possible.

(b) MILITARY EDUCATION AND TRAINING PROGRAMS.—The Secretary of each military department shall give due consideration to according a high priority to the attendance of military personnel of Poland, Hungary, and the Czech Republic at professional military education schools and training programs in the United States, including the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, the National Defense University, the war colleges of the Armed Forces, the command and general staff officer courses of the Armed Forces, and other schools and training programs of the Armed Forces that admit personnel of foreign armed forces.

SUBTITLE D—OTHER MATTERS

SEC. 1231.[30] MULTINATIONAL ECONOMIC EMBARGOES AGAINST GOVERNMENTS IN ARMED CONFLICT WITH THE UNITED STATES.

(a) POLICY ON THE ESTABLISHMENT OF EMBARGOES.—It is the policy of the United States, that upon the use of the Armed Forces of the United States to engage in hostilities against any foreign country, the President shall, as appropriate—

(1) seek the establishment of a multinational economic embargo against such country; and

(2) seek the seizure of its foreign financial assets.

(b) REPORTS TO CONGRESS.—Not later than 20 days after the first day of the engagement of the United States in hostilities described

[29] 10 U.S.C. note prec. 2161.
[30] 50 U.S.C. 1707.

in subsection (a), the President shall, if the armed conflict has continued for 14 days, submit to Congress a report setting forth—

(1) the specific steps the United States has taken and will continue to take to establish a multinational economic embargo and to initiate financial asset seizure pursuant to subsection (a); and

(2) any foreign sources of trade or revenue that directly or indirectly support the ability of the adversarial government to sustain a military conflict against the United States.

SEC. 1232.[31] LIMITATION ON DEPLOYMENT OF ARMED FORCES IN HAITI DURING FISCAL YEAR 2000 AND CONGRESSIONAL NOTICE OF DEPLOYMENTS TO HAITI.

(a) LIMITATION ON DEPLOYMENT.—No funds available to the Department of Defense during fiscal year 2000 may be expended after May 31, 2000, for the continuous deployment of United States Armed Forces in Haiti pursuant to the Department of Defense operation designated as Operation Uphold Democracy.

(b)[32] * * * [Repealed—2001]

SEC. 1233. REPORT ON THE SECURITY SITUATION ON THE KOREAN PENINSULA.

(a) REPORT.—Not later than April 1, 2000, the Secretary of Defense shall submit to the appropriate congressional committees a report on the security situation on the Korean peninsula. The report shall be submitted in both classified and unclassified form.

(b) MATTERS TO BE INCLUDED.—The Secretary shall include in the report under subsection (a) the following:

(1) A net assessment analysis of the warfighting capabilities of the Combined Forces Command (CFC) of the United States and the Republic of Korea compared with the armed forces of North Korea.

(2) An assessment of challenges posed by the armed forces of North Korea to the defense of the Republic of Korea and to United States forces deployed to the region.

(3) An assessment of the current status and the future direction of weapons of mass destruction programs and ballistic missile programs of North Korea, including a determination as to whether or not North Korea—

(A) is continuing to pursue a nuclear weapons program;

(B) is seeking equipment and technology with which to enrich uranium; and

(C) is pursuing an offensive biological weapons program.

(c) APPROPRIATE CONGRESSIONAL COMMITTEES.—In this section, the term "appropriate congressional committees" means—

(1) the Committee on International Relations and the Committee on Armed Services of the House of Representatives; and

(2) the Committee on Foreign Relations and the Committee on Armed Services of the Senate.

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[31] 50 U.S.C. 1541 note.

[32] Sec. 1222 of Public Law 107–107 (115 Stat. 1253) repealed subsec. (b), which had provided the following:

"(b) REPORT.—Whenever there is a deployment of United States Armed Forces to Haiti after May 31, 2000, the President shall, not later than 96 hours after such deployment begins, transmit to Congress a written report regarding the deployment. In any such report, the President shall specify (1) the purpose of the deployment, and (2) the date on which the deployment is expected to end.".

SEC. 1234. SENSE OF CONGRESS REGARDING THE CONTINUATION OF SANCTIONS AGAINST LIBYA.

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

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

(2) The United Kingdom and the United States indicted two Libyan intelligence agents, Abd al-Baset Ali al-Megrahi and Al-Amin Khalifah Fhimah, in 1991 and sought their extradition from Libya to the United States or the United Kingdom to stand trial for this heinous terrorist act.

(3) The United Nations Security Council called for the extradition of those suspects in Security Council Resolution 731 and imposed sanctions on Libya in Security Council Resolutions 748 and 883 because Libyan leader Colonel Muammar Qadhafi refused to transfer the suspects to either the United States or the United Kingdom to stand trial.

(4) United Nations Security Council Resolutions 731, 748, and 883 demand that Libya cease all support for terrorism, turn over the two suspects, cooperate with the investigation and the trial, and address the issue of appropriate compensation.

(5) The sanctions in United Nations Security Council Resolutions 748 and 883 include—

(A) a worldwide ban on Libya's national airline;

(B) a ban on flights into and out of Libya by other nations' airlines; and

(C) a prohibition on supplying arms, airplane parts, and certain oil equipment to Libya, and a blocking of Libyan Government funds in other countries.

(6) Colonel Muammar Qadhafi for many years refused to extradite the suspects to either the United States or the United Kingdom and had insisted that he would only transfer the suspects to a third and neutral country to stand trial.

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

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

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

(10) After years of intensive diplomacy, Colonel Qadhafi finally transferred the two Libyan suspects to The Netherlands on April 5, 1999, and the United Nations Security Council, in turn, suspended its sanctions against Libya that same day.

(11) Libya has only fulfilled one of four conditions (the transfer of the two suspects accused in the Lockerbie bombing) set forth in United Nations Security Council Resolutions 731, 748,

and 883 that would justify the lifting of United Nations Security Council sanctions against Libya.

(12) Libya has not fulfilled the other three conditions (cooperation with the Lockerbie investigation and trial, renunciation of and ending support for terrorism, and payment of appropriate compensation) necessary to lift the United Nations Security Council sanctions.

(13) The United Nations Secretary General issued a report to the Security Council on June 30, 1999, on the issue of Libya's compliance with the remaining conditions.

(14) Any member of the United Nations Security Council has the right to introduce a resolution to lift the sanctions against Libya now that the United Nations Secretary General's report has been issued.

(15) The United States Government considers Libya a state sponsor of terrorism and the State Department Report, "Patterns of Global Terrorism; 1998", stated that Colonel Qadhafi "continued publicly and privately to support Palestinian terrorist groups, including the PIJ and the PFLP–GC".

(16) United States Government sanctions (other than sanctions on food or medicine) should be maintained on Libya, and in accordance with United States law, the Secretary of State should keep Libya on the list of countries the governments of which have repeatedly provided support for acts of international terrorism under section 6(j) of the Export Administration Act of 1979 in light of Libya's ongoing support for terrorist groups.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the President should use all diplomatic means necessary, including the use of the United States veto at the United Nations Security Council, to prevent the Security Council from lifting sanctions against Libya until Libya fulfills all of the conditions set forth in United Nations Security Council Resolutions 731, 748, and 883.

SEC. 1235. SENSE OF CONGRESS AND REPORT ON DISENGAGING FROM NONCRITICAL OVERSEAS MISSIONS INVOLVING UNITED STATES COMBAT FORCES.

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

(1) It is the National Security Strategy of the United States to "deter and defeat large-scale, cross-border aggression in two distant theaters in overlapping time frames".

(2) The deterrence of Iraq and Iran in Southwest Asia and the deterrence of North Korea in Northeast Asia represent two such potential large-scale, cross-border theater requirements.

(3) The United States has 120,000 military personnel permanently assigned to the Southwest Asia and Northeast Asia theaters.

(4) The United States has an additional 70,000 military personnel assigned to non-NATO/non-Pacific threat foreign countries.

(5) The United States has more than 6,000 military personnel in Bosnia-Herzegovina on indefinite assignment.

(6) The United States has diverted permanently assigned resources from other theaters to support operations in the Balkans.

(7) The United States provides military forces to seven active United Nations peacekeeping operations, including some missions that have continued for decades.

(8) Between 1986 and 1998, the number of United States military deployments per year has nearly tripled at the same time the Department of Defense budget has been reduced in real terms by 38 percent.

(9) The Army has 10 active-duty divisions today, down from 18 in 1991, while on an average day in fiscal year 1998, 28,000 United States Army soldiers were deployed to more than 70 countries for over 300 separate missions.

(10) The number of fighter wings in the active component of the Air Force has gone from 22 to 13 since 1991, while 70 percent of air sorties in Operation Allied Force over the Balkans were United States-flown and the Air Force continues to enforce northern and southern no-fly zones in Iraq. In response, the Air Force has initiated a "stop loss" program to block normal retirements and separations.

(11) The Navy has been reduced in size to 339 ships, its lowest level since 1938, necessitating the redeployment of the only overseas homeported aircraft carrier from the western Pacific to the Mediterranean to support Operation Allied Force.

(12) In 1998, just 10 percent of eligible carrier naval aviators (27 out of 261) accepted continuation bonuses and remained in the service.

(13) In 1998, 48 percent of Air Force pilots eligible for continuation chose to leave the service.

(14) The Army could fall 6,000 below congressionally authorized strength levels by the end of 1999.

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

(1) the readiness of United States military forces to execute the National Security Strategy of the United States referred to in subsection (a)(1) is being eroded by a combination of declining defense budgets and expanded missions; and

(2) there may be missions to which the United States is contributing Armed Forces from which the United States can begin disengaging.

(c) REPORT REQUIREMENT.—Not later than March 1, 2000, the President shall submit to the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on Armed Services and the Committee on Appropriations of the House of Representatives a report prioritizing the ongoing global missions to which the United States is contributing forces. The President shall include in the report a feasibility analysis of how the United States can—

(1) shift resources from low priority missions in support of higher priority missions;

(2) consolidate or reduce United States troop commitments worldwide; and

(3) end low priority missions.

TITLE XIII—COOPERATIVE THREAT REDUCTION WITH STATES OF THE FORMER SOVIET UNION[33]

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TITLE XIV—PROLIFERATION AND EXPORT CONTROLS[34]

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TITLE XV—ARMS CONTROL AND COUNTERPROLIFERATION MATTERS[35]

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TITLE XVI—NATIONAL SECURITY SPACE MATTERS

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SUBTITLE B—COMMERCIAL SPACE LAUNCH SERVICES

SEC. 1611. SENSE OF CONGRESS REGARDING UNITED STATES-RUSSIAN COOPERATION IN COMMERCIAL SPACE LAUNCH SERVICES.

It is the sense of Congress that—

(1) the United States should demand full and complete cooperation from the Government of the Russian Federation on preventing the illegal transfer from Russia to Iran or any other country of any prohibited fissile material or ballistic missile equipment or any technology necessary for the acquisition or development by the recipient country of any nuclear weapon or ballistic missile;

(2) the United States should take every appropriate measure necessary to encourage the Government of the Russian Federation to seek out and prevent the illegal transfer from Russia to Iran or any other country of any prohibited fissile material or ballistic missile equipment or any technology necessary for the acquisition or development by the recipient country of any nuclear weapon or ballistic missile;

(3) the United States Government decision to increase the quantitative limitations applicable to commercial space launch services provided by Russian space launch providers, based upon a serious commitment by the Government of the Russian Federation to seek out and prevent the illegal transfer from Russia to Iran or any other country of any prohibited ballistic missile equipment or any technology necessary for the acquisition or development by the recipient country of any ballistic missile, should facilitate greater cooperation between the United States and the Russian Federation on nonproliferation matters; and

(4) any possible future consideration of modifying such limitations should be conditioned on a continued serious commitment by the Government of the Russian Federation to preventing such illegal transfers.

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[33] For text, see *Legislation on Foreign Relations Through 2004*, vol. II, sec. F.
[34] For text, see *Legislation on Foreign Relations Through 2004*, vol. II, sec. F
[35] For text, see *Legislation on Foreign Relations Through 2004*, vol. II, sec. F.

SEC. 1612. SENSE OF CONGRESS CONCERNING UNITED STATES COMMERCIAL SPACE LAUNCH CAPACITY.

(a) SENSE OF CONGRESS CONCERNING UNITED STATES COMMERCIAL SPACE LAUNCH CAPACITY.—It is the sense of Congress that Congress and the President should work together to stimulate and encourage the expansion of a commercial space launch capacity in the United States, including by taking actions to eliminate legal or regulatory barriers to long-term competitiveness of the United States commercial space launch industry.

(b) SENSE OF CONGRESS CONCERNING POLICY OF PERMITTING EXPORT OF COMMERCIAL SATELLITES TO PEOPLE'S REPUBLIC OF CHINA FOR LAUNCH.—It is the sense of Congress that Congress and the President should—

(1) reexamine the current United States policy of permitting the export of commercial satellites of United States origin to the People's Republic of China for launch;

(2) review the advantages and disadvantages of phasing out that policy, including in that review advantages and disadvantages identified by Congress, the executive branch, the United States satellite industry, the United States space launch industry, the United States telecommunications industry, and other interested persons; and

(3) if the phase out of that policy is adopted, permit the export of a commercial satellite of United States origin for launch in the People's Republic of China only if—

(A) the launch is licensed as of the commencement of the phase out of that policy; and

(B) additional actions under section 1514 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2175; 22 U.S.C. 2778 note) are taken to minimize the transfer of technology to the People's Republic of China during the course of the launch.

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DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

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SUBTITLE C—PROGRAM AUTHORIZATIONS, RESTRICTIONS, AND LIMITATIONS

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SEC. 3136.[36] * * * [Redesignated—2003]

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[36] Sec. 3141(f)(3) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1762) redesignated sec. 3136, relating to nonproliferation initiatives and activities, as sec. 4302 of Public Law 107–314, and at 50 U.S.C. 2562.

SUBTITLE D—MATTERS RELATING TO SAFEGUARDS, SECURITY, AND COUNTERINTELLIGENCE

SEC. 3141.[37] SHORT TITLE.

This subtitle may be cited as the "Department of Energy Facilities Safeguards, Security, and Counterintelligence Enhancement Act of 1999".

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SEC. 3146.[38] * * * [Redesignated—2003]

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SEC. 3151.[39] ANNUAL REPORT BY THE PRESIDENT ON ESPIONAGE BY THE PEOPLE'S REPUBLIC OF CHINA.

(a) ANNUAL REPORT REQUIRED.—The President shall transmit to Congress an annual report on the steps being taken by the Department of Energy, the Department of Defense, the Federal Bureau of Investigation, the Central Intelligence Agency, and all other relevant executive departments and agencies to respond to espionage and other intelligence activities by the People's Republic of China, particularly with respect to—

(1) the theft of sophisticated United States nuclear weapons design information; and

(2) the targeting by the People's Republic of China of United States nuclear weapons codes and other national security information of strategic concern.

(b) INITIAL REPORT.—The first report under this section shall be transmitted not later than March 1, 2000.

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TITLE XXXV—PANAMA CANAL COMMISSION[40]

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[37] 42 U.S.C. 7383 note.

[38] Formerly at 42 U.S.C. 7383c. Sec. 3141(h)(3) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1771) redesignated sec. 3146, relating to relating to restrictions on access to national laboratories by foreign visitors from sensitive countries, as sec. 4502 of Public Law 107–314, and as 50 U.S.C. 2652.

[39] 42 U.S.C. 7383e.

[40] For text of the Panama Canal Commission Authhorization Act for Fiscal Year 2000, see *Legislation on Foreign Relations Through 2004*, vol. II, sec. G.

k. Strom Thurmond National Defense Authorization Act for Fiscal Year 1999

Partial text of Public Law 105–261 [H.R. 3616], 112 Stat. 1920, approved October 17, 1998; amended by Public Law 106–65 [National Defense Authorization Act for Fiscal Year 2000; S. 1059], 113 Stat. 512, approved October 5, 1999; Public Law 106–113 [Arms Control and Nonproliferation Act of 1999, title XI of H.R. 3427; enacted by reference in H.R. 3194], 113 Stat. 1536, approved November 29, 1999; Public Law 106–398 [Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001; H.R. 4205], 114 Stat. 1654, approved October 30, 2000; Public Law 108–136 [National Defense Authorization Act for Fiscal Year 2004; H.R. 1588], 117 Stat. 1392, approved November 24, 2003; Public Law 108–375 [Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005; H.R. 4200], 118 Stat. 1811, approved October 28, 2004

AN ACT To authorize appropriations for fiscal year 1999 for military activities of the Department of Defense, for military construction and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

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

SECTION 1. SHORT TITLE; FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the "Strom Thurmond National Defense Authorization Act for Fiscal Year 1999".

(b) * * *

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into three divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

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

SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.

For purposes of this Act, the term "congressional defense committees" means—

(1) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

(2) the Committee on Armed Services[1] and the Committee on Appropriations of the House of Representatives.

[1] Sec. 1067(3) of Public Law 106–65 (113 Stat. 774) struck out "Committee on National Security" and inserted in lieu thereof "Committee on Armed Services".

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

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SUBTITLE A—AUTHORIZATION OF APPROPRIATIONS

NOTE.—Sec. 1003 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 732) provided the following:

"SEC. 1003. AUTHORIZATION OF EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 1999.

"(a) ADJUSTMENT OF FISCAL YEAR 1999 AUTHORIZATIONS TO REFLECT SUPPLEMENTAL APPROPRIATIONS.—Subject to subsection (b), amounts authorized to be appropriated to the Department of Defense for fiscal year 1999 in the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261) are hereby adjusted, with respect to any such authorized amount, by the amount by which appropriations pursuant to such authorization were increased (by a supplemental appropriation) or decreased (by a rescission), or both, in the 1999 Emergency Supplemental Appropriations Act (Public Law 106–31).

"(b) LIMITATION.—(1) In the case of a pending defense contingent emergency supplemental appropriation, an adjustment may be made under subsection (a) in the amount of an authorization of appropriations by reason of that supplemental appropriation only if, and to the extent that, the President transmits to Congress an official amended budget request for that appropriation that designates the entire amount requested as an emergency requirement for the specific purpose identified in the 1999 Emergency Supplemental Appropriations Act as the purpose for which the supplemental appropriation was made.

"(2) For purposes of this subsection, the term 'pending defense contingent emergency supplemental appropriation' means a contingent emergency supplemental appropriation for the Department of Defense contained in the 1999 Emergency Supplemental Appropriations Act for which an official budget request that includes designation of the entire amount of the request as an emergency requirement has not been transmitted to Congress as of the date of the enactment of this Act.

"(3) For purposes of this subsection, the term 'contingent emergency supplemental appropriation' means a supplemental appropriation that—

"(A) is 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; and

"(B) by law is available only to the extent that the President transmits to the Congress an official budget request for that appropriation that includes designation of the entire amount of the request as an emergency requirement.".

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SEC. 107. CHEMICAL DEMILITARIZATION PROGRAM.

There is hereby authorized to be appropriated for fiscal year 1999 the amount of $803,000,000 for—

(1) the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521); and

(2) the destruction of chemical warfare materiel of the United States that is not covered by section 1412 of such Act.

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SEC. 109. DEFENSE EXPORT LOAN GUARANTEE PROGRAM.

Funds are hereby authorized to be appropriated for fiscal year 1999 for the Department of Defense for carrying out the Defense Export Loan Guarantee Program under section 2540 of title 10, United States Code, in the total amount of $1,250,000.

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SUBTITLE E—OTHER MATTERS

SEC. 141. CHEMICAL STOCKPILE EMERGENCY PREPAREDNESS PROGRAM.

(a) ASSISTANCE TO STATE AND LOCAL GOVERNMENTS.—Section 1412 of the Department of Defense Authorization Act, 1986 (Public Law 99–145; 50 U.S.C. 1521), is amended by adding at the end of subsection (c) the following: * * *

SEC. 142.[2] ALTERNATIVE TECHNOLOGIES FOR DESTRUCTION OF ASSEMBLED CHEMICAL WEAPONS.

(a) PROGRAM MANAGEMENT.—The program manager for the Assembled Chemical Weapons Assessment shall continue to manage the development and testing (including demonstration and pilot-scale testing) of technologies for the destruction of lethal chemical munitions that are potential or demonstrated alternatives to the baseline incineration program. In performing such management, the program manager shall act independently of the program manager for Chemical Demilitarization and shall report to the Under Secretary of Defense for Acquisition and Technology.

(b) POST-DEMONSTRATION ACTIVITIES.—(1) The program manager for the Assembled Chemical Weapons Assessment may carry out those activities necessary to ensure that an alternative technology

[2] 50 U.S.C. 1521 note.

for the destruction of lethal chemical munitions can be implemented immediately after—

(A) the technology has been demonstrated to be successful; and

(B) the Under Secretary of Defense for Acquisition and Technology has submitted a report on the demonstration to Congress that includes a decision to proceed with the pilot-scale facility phase for an alternative technology.

(2) To prepare for the immediate implementation of any such technology, the program manager may, during fiscal years 1998 and 1999, take the following actions:

(A) Establish program requirements.

(B) Prepare procurement documentation.

(C) Develop environmental documentation.

(D) Identify and prepare to meet public outreach and public participation requirements.

(E) Prepare to award a contract for the design, construction, and operation of a pilot facility for the technology to the provider team for the technology not later than December 30, 1999.

(c) INDEPENDENT EVALUATION.—The Under Secretary of Defense for Acquisition and Technology shall provide for an independent evaluation of the cost and schedule of the Assembled Chemical Weapons Assessment, which shall be performed and submitted to the Under Secretary not later than September 30, 1999. The evaluation shall be performed by a nongovernmental organization qualified to make such an evaluation.

(d) PILOT FACILITIES CONTRACTS.—(1) The Under Secretary of Defense for Acquisition and Technology shall determine whether to proceed with pilot-scale testing of a technology referred to in paragraph (2) in time to award a contract for the design, construction, and operation of a pilot facility for the technology to the provider team for the technology not later than December 30, 1999. If the Under Secretary determines to proceed with such testing, the Under Secretary shall (exercising the acquisition authority of the Secretary of Defense) so award a contract not later than such date.

(2) Paragraph (1) applies to an alternative technology for the destruction of lethal chemical munitions, other than incineration, that the Under Secretary—

(A) certifies in writing to Congress is—

(i) as safe and cost effective for disposing of assembled chemical munitions as is incineration of such munitions; and

(ii) is capable of completing the destruction of such munitions on or before the later of the date by which the destruction of the munitions would be completed if incineration were used or the deadline date for completing the destruction of the munitions under the Chemical Weapons Convention; and

(B) determines as satisfying the Federal and State environmental and safety laws that are applicable to the use of the technology and to the design, construction, and operation of a pilot facility for use of the technology.

(3) The Under Secretary shall consult with the National Research Council in making determinations and certifications for the purpose of paragraph (2).

(4) In this subsection, the term "Chemical Weapons Convention" means the Convention on the Prohibition of Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, opened for signature on January 13, 1993, together with related annexes and associated documents.

(e) PLAN FOR PILOT PROGRAM.—If the Secretary of Defense proceeds with a pilot program under section 152(f) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 214; 50 U.S.C. 1521 note),[3] the Secretary shall prepare a plan for the pilot program and shall submit to Congress a report on such plan (including information on the cost of, and schedule for, implementing the pilot program).

(f) FUNDING.—(1) Of the amount authorized to be appropriated under section 107, funds shall be available for the program manager for the Assembled Chemical Weapons Assessment for the following:

(A) Demonstrations of alternative technologies under the Assembled Chemical Weapons Assessment.

(B) Planning and preparation to proceed from demonstration of an alternative technology immediately into the development of a pilot-scale facility for the technology, including planning and preparation for—

(i) continued development of the technology leading to deployment of the technology for use;

(ii) satisfaction of requirements for environmental permits;

(iii) demonstration, testing, and evaluation;

(iv) initiation of actions to design a pilot plant;

(v) provision of support at the field office or depot level for deployment of the technology for use; and

(vi) educational outreach to the public to engender support for the deployment.

(C) The independent evaluation of cost and schedule required under subsection (c).

(2) Funds authorized to be appropriated under section 107(1) are authorized to be used for awarding contracts in accordance with subsection (d) and for taking any other action authorized in this section.

(g)[4] ASSEMBLED CHEMICAL WEAPONS ASSESSMENT DEFINED.—In this section, the term "Assembled Chemical Weapons Assessment" means the pilot program carried out under section 8065 of the Department of Defense Appropriations Act, 1997 (section 101(b) of Public Law 104–208; 110 Stat. 3009–101; 50 U.S.C. 1521 note).

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

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[3] Sec. 1087(d)(1)(A) of Public Law 106–398 (114 Stat. 1654A–722) struck out "1521(f))" and inserted in lieu thereof "1521 note)".

[4] Sec. 1087(d)(1)(B) of Public Law 106–398 (114 Stat. 1654A–722) redesignated this subsec. as subsec. (g). It was enacted as a second subsec. (f).

SUBTITLE D—OTHER MATTERS

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SEC. 242. NATO ALLIANCE GROUND SURVEILLANCE CONCEPT DEFINITION.

Amounts authorized to be appropriated under section 201 are available for a NATO alliance ground surveillance concept definition that is based on the Joint Surveillance Target Attack Radar System (Joint STARS) Radar Technology Insertion Program (RTIP) sensor of the United States, as follows:

(1) Of the amount authorized to be appropriated under section 201(1), $6,400,000.

(2) Of the amount authorized to be appropriated under section 201(3), $3,500,000.

SEC. 243. NATO COMMON-FUNDED CIVIL BUDGET.

Of the amount authorized to be appropriated by section 201(1), $750,000 shall be available for contributions for the common-funded Civil Budget of NATO.

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SEC. 247.[5] CHEMICAL WARFARE DEFENSE.

(a) REVIEW AND MODIFICATION OF POLICIES AND DOCTRINES.—The Secretary of Defense shall review the policies and doctrines of the Department of Defense on chemical warfare defense and modify the policies and doctrine as appropriate to achieve the objectives set forth in subsection (b).

(b) OBJECTIVES.—The objectives for the modification of policies and doctrines of the Department of Defense on chemical warfare defense are as follows:

(1) To provide for adequate protection of personnel from any exposure to a chemical warfare agent (including chronic and low-level exposure to a chemical warfare agent) that would endanger the health of exposed personnel because of the deleterious effects of—

(A) a single exposure to the agent;

(B) exposure to the agent concurrently with other dangerous exposures, such as exposures to—

(i) other potentially toxic substances in the environment, including pesticides, other insect and vermin control agents, and environmental pollutants;

(ii) low-grade nuclear and electromagnetic radiation present in the environment;

(iii) preventive medications (that are dangerous when taken concurrently with other dangerous exposures referred to in this paragraph);

(iv) diesel fuel, jet fuel, and other hydrocarbon-based fuels; and

(v) occupational hazards, including battlefield hazards; and

(C) repeated exposures to the agent, or some combination of one or more exposures to the agent and other dan-

[5] 50 U.S.C. 1522 note.

gerous exposures referred to in subparagraph (B), over time.

(2) To provide for—

(A) the prevention of and protection against, and the detection (including confirmation) of, exposures to a chemical warfare agent (whether intentional or inadvertent) at levels that, even if not sufficient to endanger health immediately, are greater than the level that is recognized under Department of Defense policies as being the maximum safe level of exposure to that agent for the general population; and

(B) the recording, reporting, coordinating, and retaining of information on possible exposures described in subparagraph (A), including the monitoring of the health effects of exposures on humans and animals, environmental effects, and ecological effects, and the documenting and reporting of those effects specifically by location.

(3) To provide solutions for the concerns and mission requirements that are specifically applicable for one or more of the Armed Forces in a protracted conflict when exposures to chemical agents could be complex, dynamic, and occurring over an extended period.

(c) RESEARCH PROGRAM.—The Secretary of Defense shall develop and carry out a plan to establish a research program for determining the effects of exposures to chemical warfare agents of the type described in subsection (b). The research shall be designed to yield results that can guide the Secretary in the evolution of policy and doctrine on exposures to chemical warfare agents and to develop new risk assessment methods and instruments with respect to such exposures. The plan shall state the objectives and scope of the program and include a 5-year funding plan.

(d) REPORT.—Not later than May 1, 1999, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the results of the review under subsection (a) and on the research program developed under subsection (c). The report shall include the following:

(1) Each modification of chemical warfare defense policy and doctrine resulting from the review.

(2) Any recommended legislation regarding chemical warfare defense.

(3) The plan for the research program.

SEC. 248. LANDMINE ALTERNATIVES.

(a) AVAILABILITY OF FUNDS.—(1) Of the amounts authorized to be appropriated in section 201, not more than $19,200,000 shall be available for activities relating to the identification, adaptation, modification, research, and development of existing and new technologies and concepts that—

(A) would provide a combat capability that is equivalent to the combat capability provided by non-self destructing antipersonnel landmines;

(B) would provide a combat capability that is equivalent to the combat capability provided by anti-personnel submunitions used in mixed anti-tank mine systems; or

(C) would provide a combat capability that is equivalent to the combat capability provided by current mixed mine systems.

(2) Of the amount available under paragraph (1)—

(A) not more than $17,200,000 shall be made available for activities referred to in subparagraph (A) of that paragraph for the current efforts of the Army referred to as the Non-Self Destruct Alternative; and

(B) not more than $2,000,000 shall be made available for activities referred to in subparagraphs (B) or (C) of that paragraph that relate to anti-personnel submunitions used in mixed mine systems or an alternative for mixed munitions.

(b) FUNDING FOR RESEARCH INTO ALTERNATIVES TO ANTI-PERSONNEL SUBMUNITIONS USED IN MIXED MINE SYSTEMS OR AN ALTERNATIVE FOR MIXED MUNITIONS.—The Secretary shall include with the materials submitted to Congress with the budget for fiscal year 2000 under section 1105 of title 31, United States Code, an explanation of any funds requested to support a search for existing and new technologies and concepts that could provide a combat capability equivalent to the combat capability provided by anti-personnel submunitions used in mixed mine systems or an alternative to mixed munitions.

(c) STUDIES.—The Secretary of Defense shall enter into two contracts, each with an appropriate scientific organization—

(1) to carry out a study on existing and new technologies and concepts referred to in subsection (a); and

(2) to submit to the Secretary a report on the study, including any recommendations considered appropriate by the scientific organization.

(d) REPORT.—Not later than April 1 of 2000 and 2001, the Secretary shall submit to the congressional defense committees, and to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives,[6] a report describing the progress made in identifying technologies and concepts referred to in subsection (a). At the same time the report is submitted, the Secretary shall transmit to such committees copies of the reports (and recommendations, if any) received by the Secretary from the scientific organizations that carried out the studies referred to in subsection (c).

TITLE III—OPERATION AND MAINTENANCE

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[6] Sec. 1312 of the Arms Control and Nonproliferation Act of 1999 (title XI of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2001 and 2001 (enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536)), inserted ", and to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives," after "congressional defense committees".

SUBTITLE A—AUTHORIZATION OF APPROPRIATIONS

SEC. 301. OPERATION AND MAINTENANCE FUNDING.

Funds are hereby authorized to be appropriated for fiscal year 1999 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

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(19) For Overseas Humanitarian, Disaster, and Civic Aid programs, $50,000,000.

(20) For Drug Interdiction and Counter-drug Activities, Defense-wide, $725,582,000.

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(23) For Cooperative Threat Reduction programs, $440,400,000.

(24) For Overseas Contingency Operations Transfer Fund, $746,900,000.

SUBTITLE C—ENVIRONMENTAL PROVISIONS

SEC. 321.[7] SETTLEMENT OF CLAIMS OF FOREIGN GOVERNMENTS FOR ENVIRONMENTAL CLEANUP OF OVERSEAS SITES FORMERLY USED BY THE DEPARTMENT OF DEFENSE.

(a) NOTICE OF NEGOTIATIONS.—The President shall notify Congress before entering into any negotiations for the ex-gratia settlement of the claims of a government of another country against the United States for environmental cleanup of sites in that country that were formerly used by the Department of Defense.

(b) AUTHORIZATION REQUIRED FOR USE OF FUNDS FOR PAYMENT OF SETTLEMENT.—No funds may be used for any payment under an ex-gratia settlement of any claims described in subsection (a) unless the use of the funds for that purpose is specifically authorized by law or international agreement, including a treaty.

SEC. 322. AUTHORITY TO PAY NEGOTIATED SETTLEMENT FOR ENVIRONMENTAL CLEANUP OF FORMERLY USED DEFENSE SITES IN CANADA.

(a) FINDINGS.—Congress makes the following findings with respect to the authorization of payment of settlement with Canada in subsection (b) regarding environmental cleanup at formerly used defense sites in Canada:

(1) A unique and longstanding national security alliance exists between the United States and Canada.

(2) The sites covered by the settlement were formerly used by the United States and Canada for their mutual defense.

(3) There is no formal treaty or international agreement between the United States and Canada regarding the environmental cleanup of the sites.

(4) Environmental contamination at some of the sites could pose a substantial risk to the health and safety of the United States citizens residing in States near the border between the United States and Canada.

(5) The United States and Canada reached a negotiated agreement for an ex-gratia reimbursement of Canada in full

[7] 10 U.S.C. 2701 note.

satisfaction of claims of Canada relating to environmental contamination which agreement was embodied in an exchange of Notes between the Government of the United States and the Government of Canada.

(6) There is a unique factual basis for authorizing a reimbursement of Canada for environmental cleanup at sites in Canada after the United States departure from such sites.

(7) The basis for and authorization of such reimbursement does not extend to similar claims by other nations.

(8) The Government of Canada is committed to spending the entire $100,000,000 of the reimbursement authorized in subsection (b) in the United States, which will benefit United States industry and United States workers.

(b) AUTHORITY TO MAKE PAYMENTS.—(1) Subject to subsection (c), the Secretary of Defense may, using funds specified under subsection (d), make a payment described in paragraph (2) for each fiscal year through fiscal year 2008 for purposes of the ex-gratia reimbursement of Canada in full satisfaction of any and all claims asserted against the United States by Canada for environmental cleanup of sites in Canada that were formerly used for the mutual defense of the United States and Canada.

(2) A payment referred to in paragraph (1) is a payment of $10,000,000, in constant fiscal year 1996 dollars, into the Foreign Military Sales Trust Account for purposes of Canada.

(c) CONDITION ON AUTHORITY FOR SUBSEQUENT FISCAL YEARS.—A payment may be made under subsection (b) for a fiscal year after fiscal year 1999 only if the Secretary of Defense submits to Congress with the budget for such fiscal year under section 1105 of title 31, United States Code, evidence that the cumulative amount expended by the Government of Canada for environmental cleanup activities in Canada during any fiscal years before such fiscal year in which a payment under that subsection was authorized was an amount equal to or greater than the aggregate amount of the payments under that subsection during such fiscal years.

(d) SOURCE OF FUNDS.—(1) The payment under subsection (b) for fiscal year 1998 shall be made from amounts appropriated pursuant to section 301(5) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1669).

(2) The payment under subsection (b) for fiscal year 1999 shall be made from amounts appropriated pursuant to section 301(5).

(3) For a fiscal year after fiscal year 1999, a payment may be made under subsection (b) from amounts appropriated pursuant to the authorization of appropriations for the Department of Defense for such fiscal year for Operation and Maintenance, Defense-Wide.

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SEC. 324. REPORT REGARDING POLYCHLORINATED BIPHENYL WASTE UNDER DEPARTMENT OF DEFENSE CONTROL OVERSEAS.

(a) REPORT REQUIRED.—(1) Not later than March 1, 1999, the Secretary of Defense shall submit to the committees specified in paragraph (2) a report on the status of foreign-manufactured polychlorinated biphenyl waste. The Secretary shall prepare the report in consultation with the Administrator of the Environmental Protection Agency and the Secretary of State.

(2) The committees referred to in paragraph (1) are the following:

(A) The Committee on Armed Services and the Committee on Environment and Public Works of the Senate.

(B) The Committee on National Security, the Committee on Commerce, and the Committee on Transportation and Infrastructure of the House of Representatives.

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

(1) The identity of each foreign country from which the Secretary of Defense anticipates that the Department of Defense will need to transport foreign-manufactured polychlorinated biphenyl waste into the customs territory of the United States.

(2) For each foreign country identified under paragraph (1), an inventory of the type, concentrations, and estimated quantity of foreign-manufactured polychlorinated biphenyl waste involved, the reasons why disposal of the polychlorinated biphenyl waste in the foreign country is not available, the identity of other locations or facilities where disposal of the polychlorinated biphenyl waste in an environmentally sound manner is available, and the availability of alternative technologies and mobile units for polychlorinated biphenyl waste treatment or disposal.

(3) An accounting of all foreign-manufactured polychlorinated biphenyl waste that exists as of the date of the enactment of this Act and as of the date of the report.

(4) An estimate of the volume of foreign-manufactured polychlorinated biphenyl waste that is likely to be generated annually in each of the next 5 calendar years, and the basis for each such estimate.

(5) A description of any hazards to human health or the environment posed by foreign-manufactured polychlorinated biphenyl waste.

(6) A description of any international or domestic legal impediments that the Department has experienced in disposing of foreign-manufactured polychlorinated biphenyl waste in an environmentally sound manner.

(7) A description of any efforts undertaken by the Department to seek relief from legal impediments to the disposal of foreign-manufactured polychlorinated biphenyl waste, including the relief available pursuant to section 6(e) or 22 of the Toxic Substances Control Act (15 U.S.C. 2605(e), 2621).

(8) The identity of the possible disposal or treatment facilities in the United States that would be used if foreign-manufactured polychlorinated biphenyl waste were transported into the customs territory of the United States, and the method of disposal or treatment at each such facility.

(9) A description of Department policy and practice concerning procurement or purchase of foreign-manufactured polychlorinated biphenyls or materials containing foreign-manufactured polychlorinated biphenyls.

(c) RECOMMENDATIONS.—The report shall also include such recommendations as the Secretary of Defense, with the concurrence of the Administrator of the Environmental Protection Agency and the Secretary of State, considers necessary regarding changes to

United States law to allow for the disposal, in an environmentally sound manner, of foreign-manufactured polychlorinated biphenyl waste, together with a statement of whether and how such changes would be consistent with international law, including the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal and the Protocol to the Convention on Long-Range Transboundary Air Pollution on Persistent Organic Pollutants.

(d) DEFINITIONS.—In this section:

(1) The term "polychlorinated biphenyl waste" means—

(A) polychlorinated biphenyls; and

(B) materials containing polychlorinated biphenyls;

that are ready for disposal.

(2) The term "foreign-manufactured polychlorinated biphenyl waste" means polychlorinated biphenyl waste that is owned by the Department of Defense and situated outside of the United States and that consists of—

(A) polychlorinated biphenyls; or

(B) materials containing polychlorinated biphenyls;

that were manufactured outside of the United States.

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SEC. 327. ARCTIC MILITARY ENVIRONMENTAL COOPERATION PROGRAM.

(a) ACTIVITIES UNDER PROGRAM.—(1) Subject to paragraph (2), activities under the Arctic Military Environmental Cooperation Program of the Department of Defense shall include cooperative activities on environmental matters in the Arctic region with the military departments and agencies of other countries, including the Russian Federation.

(2) Activities under the Arctic Military Environmental Cooperation Program may not include any activities for purposes for which funds for Cooperative Threat Reduction programs have been denied or are prohibited, including the purposes for which funds are prohibited by section 1503 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2732).

(b) PRIOR NOTICE TO CONGRESS OF OBLIGATION OF FUNDS.—The Secretary of Defense shall submit to the congressional defense committees a report at least 15 days before the obligation of any funds for the Arctic Military Environmental Cooperation Program. Each such report shall specify—

(1) the amount of the proposed obligation;

(2) the activities for which the Secretary plans to obligate such funds; and

(3) the terms of the implementing agreement between the United States and the foreign government concerning the activity to be undertaken, including the financial and other responsibilities of each government.

(c) AVAILABILITY OF FISCAL YEAR 1999 FUNDS.—(1) Of the amount authorized to be appropriated by section 301(5), $4,000,000 shall be available for carrying out the Arctic Military Environmental Cooperation Program.

(2) Amounts available for the Arctic Military Environmental Cooperation Program under paragraph (1) may not be obligated or ex-

pended for that Program until 45 days after the date on which the Secretary of Defense submits to the congressional defense committees a plan for the Program under paragraph (3).

(3) The plan for the Arctic Military Environmental Cooperation Program under this paragraph shall include the following:

(A) A statement of the overall goals and objectives of the Program.

(B) A statement of the proposed activities under the Program and the relationship of such activities to the national security interests of the United States.

(C) An assessment of the compatibility of the activities set forth under subparagraph (B) with the purposes of the Cooperative Threat Reduction programs of the Department of Defense (including with any prohibitions and limitations applicable to such programs).

(D) An estimate of the funding to be required and requested in future fiscal years for the activities set forth under subparagraph (B).

(E) A proposed termination date for the Program.

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SUBTITLE D—INFORMATION TECHNOLOGY ISSUES

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SEC. 335. CONTINUITY OF ESSENTIAL OPERATIONS AT RISK OF FAILURE BECAUSE OF INFORMATION TECHNOLOGY AND NATIONAL SECURITY SYSTEMS THAT ARE NOT YEAR 2000 COMPLIANT.

(a) REPORT REQUIRED.—Not later than March 31, 1999, the Secretary of Defense and the Director of Central Intelligence shall jointly submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the plans of the Department of Defense and the intelligence community for ensuring the continuity of performance of essential operations that are at risk of failure because of information technology and national security systems that are not year 2000 compliant.

(b) CONTENT.—The report shall contain, at a minimum, the following:

(1) A prioritization of mission critical systems to ensure that the most critical systems have the highest priority for efforts to reprogram information technology and national security systems to be year 2000 compliant.

(2) A discussion of the private and other public information and support systems relied on by the national security community, including the intelligence community, and the efforts under way to ensure that those systems are year 2000 compliant.

(3) The efforts under way to repair the underlying operating systems and infrastructure.

(4) The plans for comprehensive testing of Department of Defense systems, including simulated operational tests in mission areas.

(5) A comprehensive contingency plan, for the entire national security community, which provides for resolving emergencies resulting from a system that is not year 2000 compliant and includes provision for the creation of crisis action teams for use in resolving such emergencies.

(6) A discussion of the efforts undertaken to ensure the continued reliability of service on the systems used by the President and other leaders of the United States for communicating with the leaders of other nations.

(7) A discussion of the vulnerability of allied armed forces to the failure of systems that are not, or have critical components that are not, year 2000 compliant, together with an assessment of the potential problems for interoperability among the Armed Forces of the United States and allied armed forces because of the potential for failure of such systems.

(8) An estimate of the total cost of making information technology and national security systems of the Department of Defense and the intelligence community year 2000 compliant.

(9) The countries that have critical computer-based systems any disruption of which, due to not being year 2000 compliant, would cause a significant potential national security risk to the United States.

(10) A discussion of the cooperative arrangements between the United States and other nations to assist those nations in identifying and correcting (to the extent necessary to meet national security interests of the United States) any problems in their communications and strategic systems, or other systems identified by the Secretary of Defense, that make the systems not year 2000 compliant.

(11) A discussion of the threat posed to the national security interests of the United States from any potential failure of strategic systems of foreign countries that are not year 2000 compliant.

(c) INTERNATIONAL COOPERATIVE ARRANGEMENTS.—The Secretary of Defense, with the concurrence of the Secretary of State, may enter into a cooperative arrangement with a representative of any foreign government to provide for the United States to assist the foreign government in identifying and correcting (to the extent necessary to meet national security interests of the United States) any problems in communications, strategic, or other systems of that foreign government that render the systems not year 2000 compliant.

(d) DEFINITIONS.—In this section:

(1) The term "year 2000 compliant", with respect to an information technology or national security system of the United States or a computer-based system of a foreign government, means that the system correctly recognizes dates in years after 1999 as being dates after 1999 for the purposes of system functions for which the correct date is relevant to the performance of the functions, consistent with certification level 1a, 1b, or 2 (as prescribed in the April 1997 publication of the Department of Defense entitled "Year 2000 Management Plan").

(2) The term "information technology" has the meaning given that term by section 5002 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401).

(3) The term "national security system" has the meaning given that term by section 5142 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1452).

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TITLE X—GENERAL PROVISIONS

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SUBTITLE A—FINANCIAL MATTERS

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SEC. 1004.[8] AUTHORIZATION OF APPROPRIATIONS FOR BOSNIA PEACEKEEPING OPERATIONS FOR FISCAL YEAR 1999.

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 1999 for incremental costs of the Armed Forces for Bosnia peacekeeping operations in the total amount of $1,858,600,000, as follows:

(1) For military personnel, in addition to the amounts authorized to be appropriated in title IV of this Act:

(A) For the Army, $297,700,000.

(B) For the Navy, $9,700,000.

(C) For the Marine Corps, $2,700,000.

(D) For the Air Force, $33,900,000.

(E) For the Naval Reserve, $2,200,000.

(2) For operation and maintenance for the Overseas Contingency Operations Transfer Fund, in addition to the total amount authorized to be appropriated for that fund in section 301(24) of this Act, $1,512,400,000.

(b) DESIGNATION AS EMERGENCY.—Funds authorized to be appropriated in accordance with subsection (a) are designated as emergency requirements 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)).

(c) LIMITATION.—(1) Funds available for the Department of Defense for fiscal year 1999 for military personnel for the Army, Navy, Marine Corps, Air Force, or Naval Reserve or for operation and maintenance for the Overseas Contingency Operations Transfer Fund may not be obligated or expended for Bosnia peacekeeping operations in excess of the amount authorized to be appropriated for that purpose under subsection (a).

(2) The President may waive the limitation in paragraph (1) after submitting to Congress the following:

(A) The President's written certification that the waiver is necessary in the national security interests of the United States.

(B) The President's written certification that exercising the waiver will not adversely affect the readiness of United States military forces.

(C) A report setting forth the following:

[8] See also sec. 1006 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 734).

(i) The reasons that the waiver is necessary in the national security interests of the United States.

(ii) The specific reasons that additional funding is required for the continued presence of United States military forces participating in, or supporting, Bosnia peacekeeping operations for fiscal year 1999.

(iii) A discussion of the impact on the military readiness of United States Armed Forces of the continuing deployment of United States military forces participating in, or supporting, Bosnia peacekeeping operations.

(D) A supplemental appropriations request for the Department of Defense for such amounts as are necessary for the additional fiscal year 1999 costs associated with United States military forces participating in, or supporting, Bosnia peacekeeping operations.

(d) TRANSFER AUTHORITY.—The Secretary of Defense may transfer amounts of authorizations made available to the Department of Defense in subsection (a)(2) for fiscal year 1999 to any of the authorizations for that fiscal year in section 301. Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred. The transfer authority under this subsection is in addition to any other transfer authority provided in this Act.

(e) BOSNIA PEACEKEEPING OPERATIONS DEFINED.—For the purposes of this section, the term "Bosnia peacekeeping operations"—

(1) means the operation designated as Operation Joint Forge and any other operation involving the participation of any of the Armed Forces in peacekeeping or peace enforcement activities in and around the Republic of Bosnia and Herzegovina; and

(2) includes, with respect to Operation Joint Forge or any such other operation, each activity that is directly related to the support of the operation.

SEC. 1005. PARTNERSHIP FOR PEACE INFORMATION SYSTEM MANAGEMENT.

Funds authorized to be appropriated under titles II and III of this Act shall be available for the Partnership for Peace Information Management System as follows:

(1) Of the amount authorized to be appropriated under section 201(4) for Defense-wide activities, $2,000,000.

(2) Of the amount authorized to be appropriated under section 301(5) for Defense-wide activities, $3,000,000.

SEC. 1006. UNITED STATES CONTRIBUTION TO NATO COMMON-FUNDED BUDGETS IN FISCAL YEAR 1999.

(a) FISCAL YEAR 1999 LIMITATION.—The total amount contributed by the Secretary of Defense in fiscal year 1999 for the common-funded budgets of NATO may be any amount up to, but not in excess of, the amount specified in subsection (b) (rather than the maximum amount that would otherwise be applicable to those contributions under the fiscal year 1998 baseline limitation).

(b) TOTAL AMOUNT.—The amount of the limitation applicable under subsection (a) is the sum of the following:

(1) The amounts of unexpended balances, as of the end of fiscal year 1998, of funds appropriated for fiscal years before fiscal year 1999 for payments for those budgets.

(2) The amount authorized to be appropriated under section 301(1) that is available for contributions for the NATO common-funded military budget under section 314.

(3) The amount authorized to be appropriated under section 201 that is available for contribution for the NATO common-funded civil budget under section 243.

(4) The total amount of the contributions authorized to be made under section 2501.

(c) DEFINITIONS.—For purposes of this section:

(1) COMMON-FUNDED BUDGETS OF NATO.—The term "common-funded budgets of NATO" means the Military Budget, the Security Investment Program, and the Civil Budget of the North Atlantic Treaty Organization (and any successor or additional account or program of NATO).

(2) FISCAL YEAR 1998 BASELINE LIMITATION.—The term "fiscal year 1998 baseline limitation" means the maximum annual amount of Department of Defense contributions for common-funded budgets of NATO that is set forth as the annual limitation in section 3(2)(C)(ii) of the resolution of the Senate giving the advice and consent of the Senate to the ratification of the Protocols to the North Atlantic Treaty of 1949 on the Accession of Poland, Hungary, and the Czech Republic (as defined in section 4(7) of that resolution), approved by the Senate on April 30, 1998.[9]

SUBTITLE C—COUNTER-DRUG ACTIVITIES AND OTHER ASSISTANCE FOR CIVILIAN LAW ENFORCEMENT

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SEC. 1023. DEPARTMENT OF DEFENSE COUNTER-DRUG ACTIVITIES IN TRANSIT ZONE.

(a) SENSE OF CONGRESS REGARDING PRIORITY OF DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES.—It is the sense of Congress that the Secretary of Defense should—

(1) ensure that the international drug interdiction and counter-drug activities of the Department of Defense are ac-

[9] Secs. 3(2)(C)(ii) and 4(7) of the Protocols to the North Atlantic Treaty of 1949 on the Accession of Poland, Hungary, and the Czech Republic, as approved by the Senate on April 30, 1998, printed in the *Congressional Record* on May 4, 1998 (p. S4217–S4220), provided as follows:

"[Sec. 3(2)(C)] (ii) ANNUAL LIMITATION ON UNITED STATES EXPENDITURES FOR NATO.—Unless specifically authorized by law, the total amount of expenditures by the United States in any fiscal year beginning on or after October 1, 1998, for payments to the common-funded budgets of NATO shall not exceed the total of all such payments made by the United States in fiscal year 1998."

and

"[Sec. 4] (7) PROTOCOLS TO THE NORTH ATLANTIC TREATY OF 1949 ON THE ACCESSION OF POLAND, HUNGARY, AND THE CZECH REPUBLIC.—The term 'Protocols to the North Atlantic Treaty of 1949 on the Accession of Poland, Hungary, and the Czech Republic' refers to the following protocols transmitted by the President to the Senate on February 11, 1998 (Treaty Document No. 105–36):

"(A) The Protocol to the North Atlantic Treaty on the Accession of the Republic of Poland, signed at Brussels on December 16, 1997.

"(B) The Protocol to the North Atlantic Treaty on the Accession of the Republic of Hungary, signed at Brussels on December 16, 1997.

"(C) The Protocol to the North Atlantic Treaty on the Accession of the Czech Republic, signed at Brussels on December 16, 1997.".

corded adequate resources within the budget allocation of the Department to execute the drug interdiction and counter-drug mission under the Global Military Force Policy of the Department; and

(2) make such changes to that policy as the Secretary considers necessary.

(b) SUPPORT FOR COUNTER-DRUG OPERATION CAPER FOCUS.—(1) During fiscal year 1999, the Secretary of Defense shall make available, to the maximum extent practicable, such surface vessels, maritime patrol aircraft, and personnel of the Navy as may be necessary to conduct the final phase of the counter-drug operation known as Caper Focus, which targets the maritime movement of cocaine on vessels in the eastern Pacific Ocean.

(2) Of the amount authorized to be appropriated pursuant to section 301(20) for drug interdiction and counter-drug activities, $10,500,000 shall be available for the purpose of conducting the counter-drug operation known as Caper Focus.

(c) PATROL COASTAL CRAFT FOR DRUG INTERDICTION BY SOUTHERN COMMAND.—Of the amount authorized to be appropriated pursuant to section 301(20) for drug interdiction and counter-drug activities, $14,500,000 shall be available for the purpose of equipping and operating six of the Cyclone-class coastal defense ships of the Department of Defense in the Caribbean Sea and eastern Pacific Ocean in support of the drug interdiction efforts of the United States Southern Command.

(d) RESULTING AVAILABILITY OF FUNDS FOR COUNTERPROLIFERATION AND COUNTERTERRORISM ACTIVITIES.—(1) In light of subsection (c), of the amount authorized to be appropriated pursuant to section 301(5) for the Special Operations Command, $4,500,000 shall be available for the purpose of increased training and related operations in support of the activities of the Special Operations Command regarding counterproliferation of weapons of mass destruction and counterterrorism.

(2) The amount made available under this subsection is in addition to other funds authorized to be appropriated under section 301(5) for the Special Operations Command for such purpose.

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TITLE XII—MATTERS RELATING TO OTHER NATIONS

Subtitle A—United States Armed Forces in Bosnia and Herzegovina

Sec. 1201. Findings.
Sec. 1202. Sense of Congress.
Sec. 1203. Presidential reports.
Sec. 1204. Secretary of Defense reports on operations in Bosnia and Herzegovina.
Sec. 1205. Definitions.

Subtitle B—Matters Relating to Contingency Operations

Sec. 1211. Report on involvement of Armed Forces in contingency and ongoing operations.
Sec. 1212. Submission of report on objectives of a contingency operation with requests for funding for the operation.

Subtitle C—Matters Relating to NATO and Europe

Sec. 1221. Limitation on United States share of costs of NATO expansion.
Sec. 1222. Report on military capabilities of an expanded NATO alliance.

Subtitle D—Other Matters

Sec. 1231. Limitation on assignment of United States forces for certain United Nations purposes.
Sec. 1232. Prohibition on restriction of Armed Forces under Kyoto Protocol to the United Nations Framework Convention on Climate Change.
Sec. 1233. Defense burdensharing.
Sec. 1234. Transfer of excess UH–1 Huey and AH–1 Cobra helicopters to foreign countries.
Sec. 1235. Transfers of naval vessels to certain foreign countries.
Sec. 1236. Repeal of landmine moratorium.
Sec. 1237. Application of authorities under the International Emergency Economic Powers Act to Communist Chinese military companies.

SUBTITLE A—UNITED STATES ARMED FORCES IN BOSNIA AND HERZEGOVINA

SEC. 1201. FINDINGS.

Congress makes the following findings:

(1) The contributions of the people of the United States and other nations have, in large measure, resulted in the suspension of fighting and alleviated the suffering of the people of Bosnia and Herzegovina since December 1995.

(2) The United States has expended approximately $9,500,000,000 between 1992 and mid-1998 just in support of the United States military operations in Bosnia to achieve those results.

(3) Efforts to restore the economy and political structure in Bosnia and Herzegovina have achieved some success in accordance with the Dayton Accords.

(4) On March 3, 1998, the President certified to Congress (A) that the continued presence of United States forces in Bosnia and Herzegovina after June 30, 1998, was required in order to meet the national security interests of the United States, and (B) that United States Armed Forces will not serve as, or be used as, civil police in Bosnia and Herzegovina.

(5) With that certification, the President submitted to Congress a report stating that the goal of the military presence in Bosnia and Herzegovina is to establish the conditions under which implementation of the Dayton Accords can continue without the support of a major NATO-led military force and setting forth the criteria for determining when that goal has been accomplished.

(6) Since the administration has not specified how long achievement of that goal is expected to take, the mission of United States ground combat forces in Bosnia and Herzegovina is essentially of indefinite duration.

(7) The NATO operations plan for the Stabilization Force (Operations Plan 10407, which went into effect on June 20, 1998, after approval by allied foreign ministers) incorporates all of the benchmarks set forth in the report referred to in paragraph (5) and states that the Stabilization Force will develop detailed criteria for assessing progress in achieving those benchmarks in close coordination with key international organizations participating in civilian implementation of the Dayton Accords.

(8) The military representatives of NATO member nations have been tasked by the North Atlantic Council to provide estimates of the time likely to be required for implementation of the Dayton Accords.

(9) NATO has decided to conduct formal reviews when appropriate (but at intervals of not more than 6 months) to assess the security situation and the progress being made in the implementation of the civil aspects of the Dayton Accords. Those reviews will enable the Alliance to make decisions as to reductions in the size or the Stabilization Force, leading to its eventual full withdrawal.

(10) NATO has approved the creation of a multinational specialized unit of gendarmes or paramilitary police composed of European security forces to help promote public security in Bosnia and Herzegovina as a part of the post-June 1998 mission for the Stabilization Force.

(11) The limit established for spending by the United States for the defense discretionary budget category for fiscal year 1998 in the Balanced Budget and Emergency Deficit Control Act of 1985 does not take into account the continued deployment of United States forces in Bosnia and Herzegovina after June 30, 1998, leading to the request by the President for emergency supplemental appropriations for the Bosnia and Herzegovina mission through September 30, 1998.

(12) Amounts for Department of Defense operations in Bosnia and Herzegovina during fiscal year 1999 were not included in the budget of the President for fiscal year 1999, as submitted to Congress on February 2, 1998.

(13) The President requested $1,858,600,000 in emergency appropriations in his March 4, 1998, amendment to the fiscal year 1999 budget to cover the shortfall in funding in fiscal year 1999 for the costs of extending the mission in Bosnia.

SEC. 1202. SENSE OF CONGRESS.

(a) SENSE OF CONGRESS CONCERNING UNITED STATES FORCES AND ACCOMPLISHMENT OF TASKS IN BOSNIA AND HERZEGOVINA.—It is the sense of Congress that—

(1) United States ground combat forces should not remain in Bosnia and Herzegovina indefinitely in view of the worldwide commitments of the Armed Forces of the United States;

(2) the President should work with NATO allies and the other nations whose military forces are participating in the NATO-led Stabilization Force to withdraw United States ground combat forces from Bosnia and Herzegovina within a reasonable period of time, consistent with the safety of those forces and the accomplishment of the Stabilization Force's military tasks;

(3) a NATO-led force without the participation of United States ground combat forces in Bosnia and Herzegovina might be suitable for a follow-on force for Bosnia and Herzegovina if the European Security and Defense Identity is not sufficiently developed or is otherwise considered inappropriate for such a mission; and

(4) the United States may decide to provide appropriate support to a Western European Union-led or NATO-led follow-on force for Bosnia and Herzegovina, including command and control, intelligence, logistics, and, if necessary, a ready reserve force in the region.

(b) SENSE OF CONGRESS CONCERNING PRESIDENTIAL ACTIONS.—It is the sense of Congress that the President—

(1) should inform the European NATO allies of the expression of the sense of Congress in subsection (a) and should strongly urge them to undertake preparations for establishing a Western European Union-led or a NATO-led force as a follow-on force to the Stabilization Force if needed to maintain peace and stability in Bosnia and Herzegovina; and

(2) should consult closely with the congressional leadership and the congressional defense committees with respect to the progress being made toward achieving a sustainable peace in Bosnia and Herzegovina and the progress being made toward a reduction and ultimate withdrawal of United States ground combat forces from Bosnia and Herzegovina.

(c) SENSE OF CONGRESS CONCERNING DEFENSE BUDGET.—It is the sense of Congress that—

(1) the President should include in the budget for the Department of Defense that the President submits to Congress under section 1105(a) of title 31, United States Code, for each fiscal year sufficient amounts to pay for any proposed continuation of the participation of United States forces in NATO operations in Bosnia and Herzegovina during that fiscal year; and

(2) amounts included in the budget for the purpose stated in paragraph (1) should be over and above the defense discretionary estimates as identified in the Bipartisan Budget Agreement of May 16, 1997 and the fiscal year 1998 concurrent budget resolution and not be transferred from amounts in the budget of any other agency of the executive branch, but instead should be an overall increase in the budget for the Department of Defense and the discretionary spending limits in the Balanced Budget Act of 1997.

SEC. 1203. PRESIDENTIAL REPORTS.

(a) REQUIRED REPORTS.—The President shall ensure that the semiannual reports required by section 7(b) of the general provisions of chapter I of the 1998 Supplemental Appropriations and Rescissions Act (Public Law 105–174; 112 Stat. 64) are submitted to Congress in a timely manner as long as United States ground combat forces continue to participate in the Stabilization Force (SFOR). In addition, whenever the President submits to Congress a request for funds for continued operations of United States forces in Bosnia and Herzegovina, the President shall submit a supplemental report providing information to update Congress on developments since the last semiannual report.

(b) REQUIRED INFORMATION.—In addition to the information required by the section referred to in subsection (a) to be included in a report under that section, each report under that section or under subsection (a) shall include the following:

(1) The expected duration of the deployment of United States ground combat forces in Bosnia and Herzegovina in support of implementation of the benchmarks set forth in the President's report of March 3, 1998 (referred to in section 1201(5)) for achieving a sustainable peace process.

(2) The percentage of those benchmarks that have been completed as of the date of the report, the percentage that are expected to be completed within the next reporting period, and the expected time for completion of the remaining tasks.

(3) The status of the NATO force of gendarmes or paramilitary police, including the mission of the force, the composition of the force, and the extent, if any, to which members of the Armed Forces of the United States are participating (or are to participate) in the force.

(4) The military and nonmilitary missions that the President has directed for United States forces in Bosnia and Herzegovina, including a specific discussion of—

(A) the mission of those forces, if any, in connection with the pursuit and apprehension of war criminals;

(B) the mission of those forces, if any, in connection with civilian police functions;

(C) the mission of those forces, if any, in connection with the resettlement of refugees; and

(D) the missions undertaken by those forces, if any, in support of international and local civilian authorities.

(5) An assessment of the risk for the United States forces in Bosnia and Herzegovina, including, for each mission identified pursuant to paragraph (4), the assessment of the Chairman of the Joint Chiefs of Staff regarding the nature and level of risk of the mission for the safety and well-being of United States military personnel.

(6) An assessment of the cost to the United States, by fiscal year, of carrying out the missions identified pursuant to paragraph (4) and a detailed projection of any additional funding that will be required by the Department of Defense to meet mission requirements for those operations for the remainder of the fiscal year.

(7) A joint assessment by the Secretary of Defense and the Secretary of State of the status of planning for—

(A) the assumption of all remaining military missions inside Bosnia and Herzegovina by European military and paramilitary forces; and

(B) the establishment and support of a forward-based United States rapid response force outside of Bosnia and Herzegovina that would be capable of deploying rapidly to defeat military threats to a European follow-on force inside Bosnia and Herzegovina and of providing whatever logistical, intelligence, and air support is needed to ensure that a European follow-on force is fully capable of accomplishing its missions under the Dayton Accords.

SEC. 1204. SECRETARY OF DEFENSE REPORTS ON OPERATIONS IN BOSNIA AND HERZEGOVINA.

(a) REPORT ON EFFECTS ON CAPABILITIES OF UNITED STATES MILITARY FORCES.—Not later than December 15, 1998, the Sec-

retary of Defense shall submit to the congressional defense committees a report on the effects of military operations in Bosnia and Herzegovina and the Balkans region on the capabilities of United States military forces. The report shall, in particular, describe the effects of those operations on the capability of United States military forces to conduct successfully two nearly simultaneous major theater wars as specified in current Defense Planning Guidance and in accordance with the deployment timelines called for in the war plans of the commanders of the unified combatant commands.

(b) ADDITIONAL REPORTS.—Whenever the number of United States ground combat forces in Bosnia and Herzegovina increases or decreases by 20 percent or more compared to the number of such forces as of the most recent previous report under this section, the Secretary shall submit an additional report as specified in subsection (a). Any such additional report shall be submitted within 30 days of the date on which the requirement to submit the report becomes effective under the preceding sentence.

(c) MATTERS TO BE INCLUDED.—The Secretary shall include in each report under this section information with respect to the effects of military operations in Bosnia and Herzegovina and the Balkans region on the capabilities of United States military forces to conduct successfully two nearly simultaneous major theater wars as specified in current Defense Planning Guidance and in accordance with the deployment timelines called for in the war plans of the commanders of the unified combatant commands. Such information shall include information on the effects of those operations on anticipated deployment plans for major theater wars in Southwest Asia or on the Korean peninsula, including the following:

(1) Deficiencies or delays in deployment of strategic lift, logistics support and infrastructure, ammunition (including precision guided munitions), support forces, intelligence assets, follow-on forces used for planned counteroffensives, and similar forces.

(2) Additional planned reserve component mobilization, including specific units to be ordered to active duty and required dates for activation of presidential call-up authority.

(3) Specific plans and timelines for redeployment of United States forces from Bosnia and Herzegovina, the Balkans region, or supporting forces in the region, to both the first and second major theater war.

(4) Preventative actions or deployments involving United States forces in Bosnia and Herzegovina and the Balkans region that would be taken in the event of a single theater war to deter the outbreak of a second theater war.

(5) Specific plans and timelines to replace forces deployed to Bosnia and Herzegovina, the Balkans region, or the surrounding region to maintain United States military presence.

(6) An assessment, undertaken in consultation with the Chairman of the Joint Chiefs of Staff and the commanders of the unified combatant commands, of the level of increased risk to successful conduct of the major theater wars and the maintenance of security and stability in Bosnia and Herzegovina and the Balkans region, by the requirement to redeploy forces

from Bosnia and the Balkans in the event of a major theater war.

SEC. 1205. DEFINITIONS.

As used in this subtitle:

(1) DAYTON PEACE ACCORDS.—The term "Dayton Peace Accords" means the General Framework Agreement for Peace in Bosnia and Herzegovina, initialed by the parties in Dayton, Ohio, on November 21, 1995, and signed in Paris on December 14, 1995.

(2) STABILIZATION FORCE.—The term "Stabilization Force" means the NATO-led force in Bosnia and Herzegovina and other countries in the region (referred to as "SFOR"), authorized under United Nations Security Council Resolution 1088 (December 12, 1996).

(3) NATO.—The term "NATO" means the North Atlantic Treaty Organization.

SUBTITLE B—MATTERS RELATING TO CONTINGENCY OPERATIONS

SEC. 1211. REPORT ON INVOLVEMENT OF ARMED FORCES IN CONTINGENCY AND ONGOING OPERATIONS.

(a) REPORT REQUIRED.—Not later than January 31, 1999, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the involvement of the Armed Forces in major contingency operations and major ongoing operations since the end of the Persian Gulf War. The report shall include the following:

(1) A discussion of the effects of the involvement of the Armed Forces in those operations on retention of personnel in the Armed Forces, shown in the aggregate and separately for officers and enlisted personnel.

(2) The extent to which the use of combat support and combat service support personnel and equipment of the Armed Forces in those operations has resulted in shortages of Armed Forces personnel and equipment in other regions of the world.

(3) The accounts from which funds have been drawn to pay for those operations and the specific programs for which those funds were available until diverted to pay for those operations.

(4) For each such operation—

(A) a statement of the vital interests of the United States that are involved in the operation or, if none, the interests of the United States that are involved in the operation and a characterization of those interests;

(B) a statement of what clear and distinct objectives guide the activities of United States forces in the operation; and

(C) a statement of what the President has identified on the basis of those objectives as the date, or the set of conditions, that defines the end of the operation.

(b) FORM OF REPORT.—The report shall be submitted in unclassified form, but may also be submitted in a classified form if necessary.

(c) MAJOR OPERATION DEFINED.—For the purposes of this section, a contingency operation or an ongoing operation is a major contingency operation or a major ongoing operation, respectively, if the operation involves the deployment of more than 500 members of the Armed Forces.

SEC. 1212. SUBMISSION OF REPORT ON OBJECTIVES OF A CONTINGENCY OPERATION WITH REQUESTS FOR FUNDING FOR THE OPERATION.

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

(1) On May 3, 1994, the President issued Presidential Decision Directive 25 declaring that American participation in United Nations and other peace operations would depend in part on whether the role of United States forces is tied to clear objectives and an endpoint for United States participation can be identified.

(2) Between that date and mid-1998, the President and other executive branch officials have obligated or requested appropriations of approximately $9,400,000,000 for military-related operations throughout Bosnia and Herzegovina without providing to Congress, in conjunction with the budget submission for any fiscal year, a strategic plan for such operations under the criteria set forth in that Presidential Decision Directive.

(3) Between November 27, 1995, and mid-1998 the President has established three deadlines, since elapsed, for the termination of United States military-related operations throughout Bosnia and Herzegovina.

(4) On December 17, 1997, the President announced that United States ground combat forces would remain in Bosnia and Herzegovina for an unknown period of time.

(5) Approximately 47,880 United States military personnel (excluding personnel serving in units assigned to the Republic of Korea) have participated in 14 international contingency operations between fiscal years 1991 and 1998.

(6) The 1998 posture statements of the Navy and Air Force included declarations that the pace of military operations over fiscal year 1997 adversely affected the readiness of non-deployed forces, personnel retention rates, and spare parts inventories of the Navy and Air Force.

(b) INFORMATION TO BE REPORTED WITH FUNDING REQUESTS.—Section 113 of title 10, United States Code, is amended by adding after subsection (l), as added by section 915, the following new subsection:[10]

"(m) INFORMATION TO ACCOMPANY FUNDING REQUEST FOR CONTINGENCY OPERATION.—Whenever the President submits to Congress a request for appropriations for costs associated with a contingency operation that involves, or likely will involve, the deployment of more than 500 members of the armed forces, the Secretary of Defense shall submit to Congress a report on the objectives of the operation. The report shall include a discussion of the following:

"(1) What clear and distinct objectives guide the activities of United States forces in the operation.

[10] For amended 10 U.S.C. 113, see page 597.

"(2) What the President has identified on the basis of those objectives as the date, or the set of conditions, that defines the endpoint of the operation.".

SUBTITLE C—MATTERS RELATING TO NATO AND EUROPE

SEC. 1221.[11] LIMITATION ON UNITED STATES SHARE OF COSTS OF NATO EXPANSION.

(a) LIMITATION.—The United States share of defined NATO expansion costs may not exceed the lesser of—

(1) the amount equal to 25 percent of those costs; or

(2) $2,000,000,000.

(b) DEFINED NATO EXPANSION COSTS.—For purposes of subsection (a), the term "defined NATO expansion costs" means the commonly funded costs of the North Atlantic Treaty Organization (NATO) during fiscal years 1999 through 2011 for enlargement of NATO due to the admission to NATO of Poland, Hungary, and the Czech Republic.

SEC. 1222. REPORT ON MILITARY CAPABILITIES OF AN EXPANDED NATO ALLIANCE.

(a) REPORT.—The Secretary of Defense shall prepare a report, in both classified and unclassified form, on the planned future military capabilities of the North Atlantic Treaty Organization (NATO) with the anticipated accession of Poland, the Czech Republic, and Hungary to the NATO alliance. The report shall set forth the following:

(1) An assessment of the tactical, operational, and strategic military requirements, including interoperability, reinforcement, and force modernization issues, as well as strategic and territorial issues, that are raised by the inclusion of Poland, the Czech Republic, and Hungary in the NATO alliance.

(2) The minimum military requirements to be satisfied by those countries before accession to the NATO alliance in April 1999.

(3) The improvements to common alliance military assets that are necessary as a result of expanding the NATO alliance to include those nations.

(4) The improvements to national capabilities of current NATO members that would be necessitated by the inclusion of those nations in the alliance.

(5) The necessary improvements to national capabilities of the military forces of those new member nations.

(6) Any additional necessary improvements to common alliance military assets of the military forces of those new members for which funds are not planned to be included in the NATO budget.

(7) The additional requirements, related to NATO expansion, that the United States would agree to assist each new member nation to meet on a bilateral basis.

(b) MATTERS TO BE INCLUDED.—The report shall include the following:

[11] 22 U.S.C. 1928 note.

(1) An assessment of the tactical and operational capabilities of the military forces of Poland, the Czech Republic, and Hungary.

(2) An assessment of the ability of each such new member nation to meet the minimum military requirements upon accession to the NATO alliance in April 1999, and the ability of that nation to provide logistical, command and control, and other vital infrastructure required for alliance defense (as specified in Article V of the NATO Charter), including a description in general terms of alliance plans for reinforcing each new NATO member nation during a crisis or war and detailing means for deploying both United States and other NATO forces from current member states and from the continental United States or other United States bases worldwide and, in particular, describing plans for ground reinforcement of Hungary.

(3) An assessment of the ability of the current and new alliance members to deploy and sustain combat forces in alliance defense missions conducted in the territory of any of the new member nations, as specified in Article V of the NATO Charter.

(4) A description of projected defense programs through 2009 (shown on an annual basis and cumulatively) of each current and new alliance member nation—

(A) including planned investments in capabilities pursuant to Article V to ensure that—

(i) the nation's military force structure, defense planning, command structures, and force goals promote NATO's capacity to project power when the security of a NATO member is threatened; and

(ii) NATO members possess national military capabilities to rapidly deploy forces over long distances, sustain operations for extended periods, and operate jointly with the United States in high intensity conflicts as well as potential alliance contingency operations;

(B) showing both planned national efforts as well as planned alliance common efforts; and

(C) describing any deficiencies in investments by current or new alliance member nations.

(5) A detailed comparison and description of the differences in scope, methodology, and assessments of common alliance or national responsibilities, or any other factor related to alliance capabilities between (A) the report on alliance expansion costs prepared by the Department of Defense (in the report submitted to Congress in February 1998 entitled "Report to the Congress on the Military Requirements and Costs of NATO Enlargement"), and (B) the report on alliance expansion costs prepared by NATO collectively and referred to as the "NATO estimate", issued at Brussels in November 1997.

(6) Any other factor that, in the judgment of the Secretary of Defense, bears upon the strategic, operational, or tactical military capabilities of an expanded NATO alliance.

(c) SUBMISSION OF REPORT.—The report shall be submitted to Congress not later than March 15, 1999.

SEC. 1223.[12] * * * [Repealed—2003]

SUBTITLE D—OTHER MATTERS

SEC. 1231. LIMITATION ON ASSIGNMENT OF UNITED STATES FORCES FOR CERTAIN UNITED NATIONS PURPOSES.

(a) LIMITATION ON PARTICIPATION IN UNITED NATIONS RAPIDLY DEPLOYABLE MISSION HEADQUARTERS.—If members of the Armed Forces are assigned during fiscal year 1999 to the United Nations Rapidly Deployable Mission Headquarters, the number of members so assigned may not exceed eight at any time during that year.

(b)[13] PROHIBITION.—No funds available to the Department of Defense may be used—

(1) for a monetary contribution to the United Nations for the establishment of a standing international force under the United Nations; or

(2) to assign or detail any member of the Armed Forces to duty with a United Nations Stand By Force.

SEC. 1232.[14] **PROHIBITION ON RESTRICTION OF ARMED FORCES UNDER KYOTO PROTOCOL TO THE UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE.**

(a) IN GENERAL.—Notwithstanding any other provision of law, no provision of the Kyoto Protocol to the United Nations Framework Convention on Climate Change, or any regulation issued pursuant to such protocol, shall restrict the training or operations of the United States Armed Forces or limit the military equipment procured by the United States Armed Forces.

(b) WAIVER.—A provision of law may not be construed as modifying or superseding the provisions of subsection (a) unless that provision of law—

(1) specifically refers to this section; and

(2) specifically states that such provision of law modifies or supersedes the provisions of this section.

(c) MATTERS NOT AFFECTED.—Nothing in this section shall be construed to preclude the Department of Defense from implementing any measure to achieve efficiencies or for any other reason independent of the Kyoto Protocol.

SEC. 1233. DEFENSE BURDENSHARING. * * *[15]

SEC. 1234. TRANSFER OF EXCESS UH–1 HUEY AND AH–1 COBRA HELICOPTERS TO FOREIGN COUNTRIES. * * *[16]

SEC. 1235. TRANSFERS OF NAVAL VESSELS TO CERTAIN FOREIGN COUNTRIES.

(a) TRANSFERS BY GRANT.—The Secretary of the Navy is authorized to transfer vessels to foreign countries on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) as follows:

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[12] Formerly at 22 U.S.C. 1928 note, requiring reports on the development of the European security and defense identity. Repealed by sec. 1031(g)(2) of Public Law 108–136 (117 Stat. 1604).

[13] 10 U.S.C. 405 note.

[14] 10 U.S.C. 111 note.

[15] Sec. 1233 amended sec. 1221 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1935; 22 U.S.C. 1928 note), relating to defense burdensharing.

[16] Sec. 1234 added sec. 2581 to 10 U.S.C.

(1) To the Government of Argentina, the NEWPORT class tank landing ship NEWPORT (LST 1179).

(2) To the Government of Greece—

(A) the KNOX class frigate HEPBURN (FF 1055); and

(B) the ADAMS class guided missile destroyers STRAUSS (DDG 16), SEMMS (DDG 18), and WADDELL (DDG 24).

(3) To the Government of Portugal, the STALWART class ocean surveillance ship ASSURANCE (T–AGOS 5).

(4) To the Government of Turkey, the KNOX class frigates PAUL (FF 1080), MILLER (FF 1091), and W.S. SIMMS (FF 1059).

(b) TRANSFERS BY SALE.—The Secretary of the Navy is authorized to transfer vessels to foreign countries on a sales basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761) as follows:

(1) To the Government of Brazil, the NEWPORT class tank landing ships CAYUGA (LST 1186) and PEORIA (LST 1183).

(2) To the Government of Chile—

(A) the NEWPORT class tank landing ship SAN BERNARDINO (LST 1189); and

(B) the auxiliary repair dry dock WATERFORD (ARD 5).

(3) To the Government of Greece—

(A) the OAK RIDGE class medium dry dock ALAMAGORDO (ARDM 2); and

(B) the KNOX class frigates VREELAND (FF 1068) and TRIPPE (FF 1075).

(4) To the Government of Mexico—

(A) the auxiliary repair dock SAN ONOFRE (ARD 30); and

(B) the KNOX class frigate PHARRIS (FF 1094).

(5) To the Government of the Philippines, the STALWART class ocean surveillance ship TRIUMPH (T–AGOS 4).

(6) To the Government of Spain, the NEWPORT class tank landing ships HARLAN COUNTY (LST 1196) and BARNSTABLE COUNTY (LST 1197).

(7) To the Taipai Economic and Cultural Representative Office in the United States (the Taiwan instrumentality that is designated pursuant to section 10(a) of the Taiwan Relations Act)—

(A) the KNOX class frigates PEARY (FF 1073), JOSEPH HEWES (FF 1078), COOK (FF 1083), BREWTON (FF 1086), KIRK (FF 1987), and BARBEY (FF 1088);

(B) the NEWPORT class tank landing ships MANITOWOC (LST 1180) and SUMTER (LST 1181);

(C) the floating dry dock COMPETENT (AFDM 6); and

(D) the ANCHORAGE class dock landing ship PENSACOLA (LSD 38).

(8) To the Government of Turkey—

(A) the OLIVER HAZARD PERRY class guided missile frigates MAHLON S. TISDALE (FFG 27), REID (FFG 30), and DUNCAN (FFG 10); and

(B) the KNOX class frigates REASONER (FF 1063), FANNING (FF 1076), BOWEN (FF 1079), MCCANDLESS

(FF 1084), DONALD BEARY (FF 1085), AINSWORTH (FF 1090), THOMAS C. HART (FF 1092), and CAPODANNO (FF 1093).

(9) To the Government of Venezuela, the medium auxiliary floating dry dock bearing hull number AFDM 2.

(c) TRANSFERS ON A COMBINED LEASE-SALE BASIS.—The Secretary of the Navy is authorized to transfer vessels to foreign countries on a combined lease-sale basis under sections 61 and 21 of the Arms Export Control Act (22 U.S.C. 2796, 2761) and in accordance with subsection (d) as follows:

(1) To the Government of Brazil, the CIMARRON class oiler MERRIMACK (AO 179).

(2) To the Government of Greece, the KIDD class guided missile destroyers KIDD (DDG 993), CALLAGHAN (DDG 994), SCOTT (DDG 995), and CHANDLER (DDG 996).

(d) CONDITIONS RELATING TO COMBINED LEASE-SALE TRANSFERS.—A transfer of a vessel on a combined lease-sale basis authorized by subsection (c) shall be made in accordance with the following requirements:

(1) The Secretary may initially transfer the vessel by lease, with lease payments suspended for the term of the lease, if the country entering into the lease for the vessel simultaneously enters into a foreign military sales agreement for the transfer of title to the vessel.

(2) The Secretary may not deliver to the purchasing country title to the vessel until the purchase price of the vessel under such a foreign military sales agreement is paid in full.

(3) Upon payment of the purchase price in full under such a sales agreement and delivery of title to the recipient country, the Secretary shall terminate the lease.

(4) If the purchasing country fails to make full payment of the purchase price in accordance with the sales agreement by the date required under the sales agreement—

(A) the sales agreement shall be immediately terminated;

(B) the suspension of lease payments under the lease shall be vacated; and

(C) the United States shall be entitled to retain all funds received on or before the date of the termination under the sales agreement, up to the amount of the lease payments due and payable under the lease and all other costs required by the lease to be paid to that date.

(5) If a sales agreement is terminated pursuant to paragraph (4), the United States shall not be required to pay any interest to the recipient country on any amount paid to the United States by the recipient country under the sales agreement and not retained by the United States under the lease.

(e) REQUIREMENT FOR PROVISION IN ADVANCE IN AN APPROPRIATIONS ACT.—Authority to transfer vessels on a sale basis under subsection (b) or a combined lease-sale basis under subsection (c) is effective only to the extent that authority to effectuate such transfers, together with appropriations to cover the associated cost (as defined in section 502 of the Congressional Budget of 1974 (2 U.S.C. 661a)), are provided in advance in an appropriations Act.

(f) AUTHORIZATION OF APPROPRIATIONS FOR CERTAIN COSTS OF TRANSFERS.—There is established in the Treasury of the United States a special account to be known as the Defense Vessels Transfer Program Account. There is hereby authorized to be appropriated into that account such sums as may be necessary for the costs (as defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661a)) of the lease-sale transfers authorized by subsection (c). Funds in that account are available only for the purpose of covering those costs.

(g) NOTIFICATION OF CONGRESS.—Not later than 30 days after the date of the enactment of this Act, the Secretary of the Navy shall submit to Congress, for each naval vessel that is to be transferred under this section before January 1, 1999, the notifications required under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) and section 525 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118; 111 Stat. 2413).

(h) GRANTS NOT COUNTED IN ANNUAL TOTAL OF TRANSFERRED EXCESS DEFENSE ARTICLES.—The value of a vessel transferred to another country on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) pursuant to authority provided by subsection (a) shall not be counted for the purposes of subsection (g) of that section in the aggregate value of excess defense articles transferred to countries under that section in any fiscal year.

(i) COSTS OF TRANSFERS.—Any expense incurred by the United States in connection with a transfer authorized by this section shall be charged to the recipient (notwithstanding section 516(e)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(e)(1)) in the case of a transfer authorized to be made on a grant basis under subsection (a)).

(j) REPAIR AND REFURBISHMENT IN UNITED STATES SHIPYARDS.—To the maximum extent practicable, the Secretary of the Navy shall require, as a condition of the transfer of a vessel under this section, that the country to which the vessel is transferred have such repair or refurbishment of the vessel as is needed, before the vessel joins the naval forces of that country, performed at a shipyard located in the United States, including a United States Navy shipyard.

(k) EXPIRATION OF AUTHORITY.—The authority to transfer a vessel under this section shall expire at the end of the 2-year period beginning on the date of the enactment of this Act.

SEC. 1236. REPEAL OF LANDMINE MORATORIUM.

Section 580 of the Foreign Operations Appropriations Act, 1996 (Public Law 104–107; 110 Stat. 751), is repealed.[17]

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[17] Sec. 580 of Public Law 104–107 had read as follows:

"MORATORIUM ON USE OF ANTIPERSONNEL LANDMINES

"SEC. 580. (a) UNITED STATES MORATORIUM.—For a period of one year beginning three years after the date of enactment of this Act, the United States shall not use antipersonnel landmines except along internationally recognized national borders or in demilitarized zones within a perimeter marked area that is monitored by military personnel and protected by adequate means to ensure the exclusion of civilians.

"(b) DEFINITION AND EXEMPTIONS.—For the purposes of this section:

SEC. 1237.[18] APPLICATION OF AUTHORITIES UNDER THE INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT TO COMMUNIST CHINESE MILITARY COMPANIES.

(a) PRESIDENTIAL AUTHORITY.—

(1) IN GENERAL.—The President may exercise IEEPA authorities (other than authorities relating to importation) without regard to section 202 of the International Emergency Economic Powers Act (50 U.S.C. 1701) in the case of any commercial activity in the United States by a person that is on the list published under subsection (b).

(2) PENALTIES.—The penalties set forth in section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) apply to violations of any license, order, or regulation issued under paragraph (1).

(3) IEEPA AUTHORITIES.—For purposes of paragraph (1), the term "IEEPA authorities" means the authorities set forth in section 203(a) of the International Emergency Economic Powers Act (50 U.S.C. 1702(a)).

(b) DETERMINATION AND PUBLICATION OF COMMUNIST CHINESE MILITARY COMPANIES OPERATING IN UNITED STATES.—

(1) INITIAL DETERMINATION AND PUBLICATION.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall make a determination of those persons operating directly or indirectly in the United States or any of its territories and possessions that are Communist Chinese military companies and shall publish a list of those persons in the Federal Register.

(2) REVISIONS TO LIST.—The Secretary of Defense shall make additions or deletions to the list published under paragraph (1) on an ongoing basis based on the latest information available.

(3) CONSULTATION.—The Secretary of Defense shall consult with the following officers in carrying out paragraphs (1) and (2):

(A) The Attorney General.

(B) The Director of Central Intelligence.

(C) The Director of the Federal Bureau of Investigation.

(4) COMMUNIST CHINESE MILITARY COMPANY.—For purposes of making the determination required by paragraph (1) and of carrying out paragraph (2), the term "Communist Chinese military company" means—

(A) any person identified in the Defense Intelligence Agency publication numbered VP–1920–271–90, dated September 1990, or PC–1921–57–95, dated October 1995, and any update of those publications for the purposes of this section; and

(B) any other person that—

"(1) ANTIPERSONNEL LANDMINE.—The term 'antipersonnel landmine' means any munition placed under, on, or near the ground or other surface area, delivered by artillery, rocket, mortar, or similar means, or dropped from an aircraft and which is designed, constructed or adapted to be detonated or exploded by the presence, proximity, or contact of a person.

"(2) EXEMPTIONS.—The term 'antipersonnel landmine' does not include command detonated Claymore munitions.".

[18] 50 U.S.C. 1701 note.

(i) is owned or controlled by , or affiliated with,[19] the People's Liberation Army or a ministry of the government of the People's Republic of China or that is owned or controlled by an entity affiliated with the defense industrial base of the People's Republic of China;[20] and

(ii) is engaged in providing commercial services, manufacturing, producing, or exporting.

(c) PEOPLE'S LIBERATION ARMY.—For purposes of this section, the term "People's Liberation Army" means the land, naval, and air military services, the police, and the intelligence services of the Communist Government of the People's Republic of China, and any member of any such service or of such police.

TITLE XIII—COOPERATIVE THREAT REDUCTION WITH STATES OF THE FORMER SOVIET UNION[21]

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TITLE XIV—DOMESTIC PREPAREDNESS FOR DEFENSE AGAINST WEAPONS OF MASS DESTRUCTION[22]

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TITLE XV—MATTERS RELATING TO ARMS CONTROL, EXPORT CONTROLS, AND COUNTER-PROLIFERATION[23]

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DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

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SUBTITLE C—PROGRAM AUTHORIZATIONS, RESTRICTIONS, AND LIMITATIONS

SEC. 3131. PERMANENT EXTENSION OF FUNDING PROHIBITION RELATING TO INTERNATIONAL COOPERATIVE STOCKPILE STEWARDSHIP.

Section 3133(a) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2036) is amended by striking out "for fiscal year 1998" and inserting in lieu thereof "for any fiscal year".[24]

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[19] Sec. 1222(1) of Public Law 108–375 (118 Stat. 2089) inserted ", or affiliated with," after "or controlled by".

[20] Sec. 1222(2) of Public Law 108–375 (118 Stat. 2089) inserted "or a ministry of the government of the People's Republic of China or that is owned or controlled by an entity affiliated with the defense industrial base of the People's Republic of China".

[21] For text, see *Legislation on Foreign Relations Through 2004*, vol. II, sec. F.

[22] For text, see *Legislation on Foreign Relations Through 2004*, vol. II, sec. F.

[23] For text, see *Legislation on Foreign Relations Through 2004*, vol. II, sec. F.

[24] Formerly at 42 U.S.C. 7273c. Sec. 3141(f)(2) of Public Law 108–136 (117 Stat. 1762) redesignated sec. 3133 of Public Law 105–85 as sec. 4301 of Public Law 107–314, and as 50 U.S.C. 2561.

SEC. 3132. SUPPORT OF BALLISTIC MISSILE DEFENSE ACTIVITIES OF THE DEPARTMENT OF DEFENSE.

(a) FUNDS TO CARRY OUT CERTAIN BALLISTIC MISSILE DEFENSE ACTIVITIES.—Of the amounts authorized to be appropriated to the Department of Energy pursuant to section 3101, $30,000,000 shall be available for research, development, and demonstration activities to support the mission of the Ballistic Missile Defense Organization of the Department of Defense, including the following activities:

(1) Technology development, concept demonstration, and integrated testing to improve reliability and reduce risk in hit-to-kill interceptors for missile defense.

(2) Support for science and engineering teams to address technical problems identified by the Director of the Ballistic Missile Defense Organization as critical to acquisition of a theater missile defense capability.

(b) MEMORANDUM OF UNDERSTANDING.—The activities referred to in subsection (a) shall be carried out under the memorandum of understanding entered into by the Secretary of Energy and the Secretary of Defense for the use of national laboratories for ballistic missile defense programs, as required by section 3131 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2034).

(c) METHOD OF FUNDING.—Funds for activities referred to in subsection (a) may be provided—

(1) by direct payment from funds available pursuant to subsection (a); or

(2) in the case of such an activity carried out by a national laboratory but paid for by the Ballistic Missile Defense Organization, through a method under which the Secretary of Energy waives any requirement for the Department of Defense to pay any indirect expenses (including overhead and federal administrative charges) of the Department of Energy or its contractors.

SEC. 3133. NONPROLIFERATION ACTIVITIES.

(a) INITIATIVES FOR PROLIFERATION PREVENTION.—Of the amount authorized to be appropriated by section 3103(a)(1)(A)(ii), up to $20,000,000 may be used for the Initiatives for Proliferation Prevention program.

(b) NUCLEAR CITIES INITIATIVE.—(1) Funds authorized under this title may not be obligated or expended for the purpose of implementing the Nuclear Cities Initiative until—

(A) the Secretary of Energy submits to the congressional defense committees the report described in paragraph (2); and

(B) a period of 20 legislative days has expired following the date on which the report is submitted to Congress.

(2) The Secretary of Energy shall prepare a report on the Nuclear Cities Initiative. The report shall describe—

(A) the objectives of the initiative;

(B) methods and processes for the implementation of the initiative;

(C) a program timeline for the initiative with milestones; and

(D) the funding requirements for the initiative through its completion.

(3) For purposes of this section, the term "Nuclear Cities Initiative" means the initiative arising pursuant to the March 1998 discussion between the Vice President of the United States and the Prime Minister of the Russian Federation and between the Secretary of Energy of the United States and the Minister of Atomic Energy of the Russian Federation.

(4) For purposes of paragraph (1)(B), a legislative day is a day on which both Houses of Congress are in session.

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SUBTITLE D—OTHER MATTERS

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SEC. 3160. INTERNATIONAL COOPERATIVE INFORMATION EXCHANGE.

(a) FINDINGS.—Congress finds the following:

(1) Currently in the post-cold war world, there are new opportunities to facilitate international political and scientific cooperation on cost-effective, advanced, and innovative nuclear management technologies.

(2) There is increasing public interest in monitoring and remediation of nuclear waste.

(3) It is in the best interest of the United States to explore and develop options with the international community to facilitate the exchange of evolving advanced nuclear wastes technologies.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Energy, in consultation with the Secretary of State, the Secretary of Defense, the Administrator of the Environmental Protection Agency, and other officials as appropriate, should prepare and submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report containing the following:

(1) An assessment of whether the United States should encourage the establishment of an international project to facilitate the international exchange of information (including costs data) relating to nuclear waste technologies, including technologies for solid and liquid radioactive wastes and contaminated soils and sediments.

(2) An assessment of whether such a project could be funded privately through industry, public interest, and scientific organizations and administered by an international nongovernmental organization, with operations in the United States, Russia, and other countries that have an interest in developing such technologies.

(3) A description of the Federal programs that facilitate the exchange of such information and of any added benefit of consolidating such programs into such a project.

(4) Recommendations for any legislation that the Secretary of Energy believes would be required to enable such a project to be undertaken.

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TITLE XXXV—PANAMA CANAL COMMISSION[25]

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TITLE XXXVI—MARITIME ADMINISTRATION

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SEC. 3603. AUTHORITY TO CONVEY CERTAIN NATIONAL DEFENSE RESERVE FLEET VESSELS.

(a) AUTHORITY TO CONVEY.—The Secretary of Transportation may convey all right, title, and interest of the United States Government in and to the vessels BENJAMIN ISHERWOOD (TAO–191) and HENRY ECKFORD (TAO–192) to a purchaser for the limited purpose of reconstruction of those vessels for sale or charter to a North Atlantic Treaty Organization country for full use as an oiler.

(b) TERMS OF CONVEYANCE.—

(1) DELIVERY OF VESSEL.—In carrying out subsection (a), the Secretary shall deliver the vessel—

(A) at the place where the vessel is located on the date of the conveyance;

(B) in its condition on that date; and

(C) at no cost to the United States Government.

(2) REQUIRED CONDITIONS.—The Secretary may not convey a vessel under this section unless—

(A) competitive procedures are used for sales under this section;

(B) the vessel is sold for not less than the fair market value of the vessel in the United States, as determined by the Secretary of Transportation;

(C) the recipient agrees that any repair, except for emergency repairs, restoration, or reconstruction work for the vessel will be performed in the United States;

(D) the recipient agrees to hold the Government harmless for any claims arising from defects in the vessel or from exposure to hazardous material, including asbestos and polychlorinated biphenyls, after the conveyance of the vessel, except for claims arising before the date of the conveyance or from use of the vessel by the Government after that date;

(E) the recipient provides sufficient evidence to the Secretary that it has adequate financial resources in the form of cash, liquid assets, or a written loan commitment to complete the reconstruction of the vessel; and

(F) with respect to the vessel, the recipient remains subject to all laws and regulations governing the export of military items, including the requirements administered by the Department of State regarding export licenses and certification of nontransfer end use.

(3) ADDITIONAL TERMS.—The Secretary may require such additional terms in connection with a conveyance authorized by this section as the Secretary considers appropriate.

[25] For text, see *Legislation on Foreign Relations Through 2004*, vol. II, sec. G.

(c) PROCEEDS.—Any amounts received by the United States as proceeds from the sale of a vessel under this section shall be deposited in the Vessel Operations Revolving Fund established by section 801 of the Act of June 2, 1951 (65 Stat. 59; 46 U.S.C. App. 1241a) and shall be available and expended in accordance with section 6(a) of the National Maritime Heritage Act (16 U.S.C. App. 5405(a)).

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TITLE XXXVII—INCREASED MONITORING OF PRODUCTS MADE WITH FORCED LABOR

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SEC. 3701. AUTHORIZATION FOR ADDITIONAL CUSTOMS PERSONNEL TO MONITOR THE IMPORTATION OF PRODUCTS MADE WITH FORCED LABOR.

There are authorized to be appropriated for monitoring by the United States Customs Service of the importation into the United States of products made with forced labor, the importation of which violates section 307 of the Tariff Act of 1930 or section 1761 of title 18, United States Code, $2,000,000 for fiscal year 1999.

SEC. 3702.[26] REPORTING REQUIREMENT ON FORCED LABOR PRODUCTS DESTINED FOR THE UNITED STATES MARKET.

(a) REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this Act, the Commissioner of Customs shall prepare and transmit to the Congress a report on products made with forced labor that are destined for the United States market.

(b) CONTENTS OF REPORT.—The report under subsection (a) shall include information concerning the following:

(1) The extent of the use of forced labor in manufacturing products destined for the United States market.

(2) The volume of products made with forced labor, destined for the United States market, that is in violation of section 307 of the Tariff Act of 1930 or section 1761 of title 18, United States Code, and is seized by the United States Customs Service.

(3) The progress of the United States Customs Service in identifying and interdicting products made with forced labor that are destined for the United States market.

SEC. 3703. RENEGOTIATING MEMORANDA OF UNDERSTANDING ON FORCED LABOR.

It is the sense of Congress that the President should determine whether any country with which the United States has a memorandum of understanding with respect to reciprocal trade which involves goods made with forced labor is frustrating implementation of the memorandum. Should an affirmative determination be made, the President should immediately commence negotiations to replace the current memorandum of understanding with one providing for effective procedures for the monitoring of forced labor, including improved procedures to request investigations by inter-

[26] 19 U.S.C. 1307 note.

national monitors of worksites suspected to be in violation of any such memorandum.

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TITLE XXXIX—RADIO FREE ASIA[27]

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[27] For text, see *Legislation on Foreign Relations Through 2004*, vol. II, sec. E.

l. National Defense Authorization Act for Fiscal Year 1998

Partial text of Public Law 105–85 [H.R. 1119], 111 Stat. 1629, approved November 18, 1997; amended by Public Law 105–261 [Strom Thurmond National Defense Authorization Act for Fiscal Year 1999; H.R. 3616], 112 Stat. 1920, approved October 17, 1998; Public Law 106–65 [National Defense Authorization Act for Fiscal Year 2000; S. 1059], 113 Stat. 512, approved October 5, 1999; Public Law 106–398 [Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001; H.R. 4205], 114 Stat. 1654, approved October 30, 2000; Public Law 108–136 [National Defense Authorization Act for Fiscal Year 2004; H.R. 1588], 117 Stat. 1392, approved November 24, 2003

AN ACT To authorize appropriations for fiscal year 1998 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

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

NOTE.—Sec. 1003 of Public Law 105–261 (112 Stat. 2112) provided the following:

"SEC. 1003. AUTHORIZATION OF PRIOR EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 1998.

"Amounts authorized to be appropriated to the Department of Defense for fiscal year 1998 in the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85) are hereby adjusted, with respect to any such authorized amount, by the amount by which appropriations pursuant to such authorization were increased (by a supplemental appropriation) or decreased (by a rescission), or both, in the 1998 Supplemental Appropriations and Rescissions Act (Public Law 105–174).".

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Defense Authorization Act for Fiscal Year 1998".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into three divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

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

SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.

For purposes of this Act, the term "congressional defense committees" means—

(1) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

(2) the Committee on Armed Services[1] and the Committee on Appropriations of the House of Representatives.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

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Subtitle A—Authorization of Appropriations

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SEC. 107. CHEMICAL DEMILITARIZATION PROGRAM.

There is hereby authorized to be appropriated for fiscal year 1998 the amount of $600,700,000 for—

(1) the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521); and

(2) the destruction of chemical warfare materiel of the United States that is not covered by section 1412 of such Act.

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TITLE III—OPERATION AND MAINTENANCE

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Subtitle A—Authorization of Appropriations

SEC. 301. OPERATION AND MAINTENANCE FUNDING.

Funds are hereby authorized to be appropriated for fiscal year 1998 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

* * *

(19) For Overseas Humanitarian, Disaster, and Civic Aid programs, $47,130,000.

(20) For Drug Interdiction and Counter-drug Activities, Defense-wide, $666,882,000.

* * *

(23) For Cooperative Threat Reduction programs, $382,200,000.

(24) For Overseas Contingency Operations Transfer Fund, $1,253,900,000.

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[1] Sec. 1067(5) of Public Law 106–65 (113 Stat. 774) struck out "Committee on National Security" and inserted in lieu thereof "Committee on Armed Services".

Subtitle C—Environmental Provisions

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SEC. 345. ANNUAL REPORT ON ENVIRONMENTAL ACTIVITIES OF THE DEPARTMENT OF DEFENSE OVERSEAS.

Section 2706 of title 10, United States Code, is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection (d):

"(d) REPORT ON ENVIRONMENTAL ACTIVITIES OVERSEAS.—(1) The Secretary of Defense shall submit to Congress each year, not later than 30 days after the date on which the President submits to Congress the budget for a fiscal year, a report on the environmental activities of the Department of Defense overseas.

"(2) Each such report shall include a statement of the funding levels during such fiscal year for each of the following categories:

"(A) Compliance by the Department of Defense with requirements under a treaty, law, contract, or other agreement for environmental restoration or compliance activities.

"(B) Performance by the Department of Defense of other environmental restoration and compliance activities overseas.

"(C) Performance by the Department of Defense of any other overseas activities related to the environment, including conferences, meetings, and studies for pilot programs, and travel related to such activities.".

SEC. 346. REVIEW OF EXISTING ENVIRONMENTAL CONSEQUENCES OF THE PRESENCE OF THE ARMED FORCES IN BERMUDA.

Not later than 120 days after the date of enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on any remaining environmental effects of the presence of the Armed Forces of the United States in Bermuda.

SEC. 347. SENSE OF CONGRESS ON DEPLOYMENT OF UNITED STATES ARMED FORCES ABROAD FOR ENVIRONMENTAL PRESERVATION ACTIVITIES.

(a) SENSE OF CONGRESS.—It is the sense of Congress that members of the Army, Navy, Air Force, and Marine Corps should not be deployed outside the United States to provide assistance to another nation in connection with environmental preservation activities in that nation, unless the Secretary of Defense determines that such activities are necessary for national security purposes.

(b) SCOPE OF SECTION.—For purposes of this section, environmental preservation activities do not include any of the following:

(1) Activities undertaken for humanitarian purposes, disaster relief activities, peacekeeping activities, or operational training activities.

(2) Environmental compliance and restoration activities associated with military installations and deployments outside the United States.

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Subtitle F—Other Matters

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SEC. 382. CENTER FOR EXCELLENCE IN DISASTER MANAGEMENT AND HUMANITARIAN ASSISTANCE.

(a) ESTABLISHMENT AND OPERATION OF CENTER.—(1) Chapter 7 of title 10, United States Code, is amended by adding at the end the following new section: * * *[2]

(b) FUNDING FOR FISCAL YEAR 1998.—Of the funds authorized to be appropriated pursuant to section 301(5) for operation and maintenance for Defense-wide activities, $5,000,000 shall be available for the operation of the Center for Excellence in Disaster Management and Humanitarian Assistance established under section 182 of title 10, United States Code, as added by subsection (a).

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TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

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SEC. 402. PERMANENT END STRENGTH LEVELS TO SUPPORT TWO MAJOR REGIONAL CONTINGENCIES. * * *[3]

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TITLE X—GENERAL PROVISIONS

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Subtitle A—Financial Matters

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SEC. 1004. AUTHORIZATION OF PRIOR EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 1997.

Amounts authorized to be appropriated to the Department of Defense for fiscal year 1997 in the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201) are hereby adjusted, with respect to any such authorized amount, by the amount by which appropriations pursuant to such authorization were increased (by a supplemental appropriation) or decreased (by a rescission), or both, in the 1997 Emergency Supplemental Appropriations Act for Recovery from Natural Disasters, and for Overseas Peacekeeping Efforts, Including Those in Bosnia (Public Law 105–18).

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SEC. 1025. TRANSFER OF NAVAL VESSELS TO CERTAIN FOREIGN COUNTRIES.

(a) AUTHORITY.—The Secretary of the Navy is authorized to transfer vessels to foreign countries on a sales basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761) as follows:

(1) To the Government of Brazil, the HUNLEY class submarine tender HOLLAND (AS 32).

(2) To the Government of Chile, the KAISER class oiler ISHERWOOD (T–AO 191).

(3) To the Government of Egypt:

(A) The following frigates of the KNOX class:

[2] See 10 U.S.C. 182.
[3] See 10 U.S.C. 691.

(i) The PAUL (FF 1080).
(ii) The MILLER (FF 1091).
(iii) The JESSE L. BROWN (FFT 1089).
(iv) The MOINESTER (FFT 1097).

(B) The following frigates of the OLIVER HAZARD PERRY class:
(i) The FAHRION (FFG 22).
(ii) The LEWIS B. PULLER (FFG 23).

(4) To the Government of Israel, the NEWPORT class tank landing ship PEORIA (LST 1183).

(5) To the Government of Malaysia, the NEWPORT class tank landing ship BARBOUR COUNTY (LST 1195).

(6) To the Government of Mexico, the KNOX class frigate ROARK (FF 1053).

(7) To the Taipei Economic and Cultural Representative Office in the United States (the Taiwan instrumentality that is designated pursuant to section 10(a) of the Taiwan Relations Act), the following frigates of the KNOX class:
(A) The WHIPPLE (FF 1062).
(B) The DOWNES (FF 1070).

(8) To the Government of Thailand, the NEWPORT class tank landing ship SCHENECTADY (LST 1185).

(b) COSTS OF TRANSFERS.—Any expense incurred by the United States in connection with a transfer authorized by subsection (a) shall be charged to the recipient.

(c) REPAIR AND REFURBISHMENT IN UNITED STATES SHIPYARDS.—To the maximum extent practicable, the Secretary of the Navy shall require, as a condition of the transfer of a vessel under this section, that the country to which the vessel is transferred have such repair or refurbishment of the vessel as is needed, before the vessel joins the naval forces of that country, performed at a shipyard located in the United States, including a United States Navy shipyard.

(d) EXPIRATION OF AUTHORITY.—The authority to transfer a vessel under subsection (a) shall expire at the end of the two-year period beginning on the date of the enactment of this Act.

SEC. 1026. REPORTS RELATING TO EXPORT OF VESSELS THAT MAY CONTAIN POLYCHLORINATED BIPHENYLS.

(a) REPORTS REQUIRED.—Not later than March 1, 1998, the Secretary of the Navy (with respect to the Navy), the Administrator of the Maritime Administration (with respect to the Maritime Administration), and the Administrator of the Environmental Protection Agency (with respect to the Environmental Protection Agency) shall each submit to Congress a report on the implementation of the agreement between the Department of the Navy and the Environmental Protection Agency that became effective August 6, 1997, and that is titled "Export of Naval Vessels that May Contain Polychlorinated Biphenyls for Scrapping Outside the United States".

(b) CONTENTS OF REPORTS.—The reports required by subsection (a) shall address, at a minimum, the following:

(1) An assessment of the effects of the notification requirements regarding the export of vessels for scrapping, any impediments that those requirements may create for the export

of vessels, and any changes to the agreement that may be required to address those impediments.

(2) An explanation of the process by which it is determined which solid items containing polychlorinated biphenyls are readily removable and must be removed before the export of a vessel for scrapping, what types of polychlorinated biphenyls have been determined to be readily removable pursuant to this process, any impediments that such determinations may create for the export of vessels, and any changes to the agreement that may be required to address those impediments or to ensure protection of human health and the environment.

(c) AMENDMENTS RELATING TO DISPOSAL OF OBSOLETE VESSELS FROM THE NATIONAL DEFENSE RESERVE FLEET.—Section 6 of the National Maritime Heritage Act of 1994 (Public Law 103–451; 108 Stat. 4776; 16 U.S.C. 5405) is amended—* * *

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Subtitle C—Counter-Drug Activities

SEC. 1031. USE OF NATIONAL GUARD FOR STATE DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES. * * *[4]

SEC. 1032. AUTHORITY TO PROVIDE ADDITIONAL SUPPORT FOR COUNTER-DRUG ACTIVITIES OF MEXICO.

(a) EXTENSION OF AUTHORITY; CONSULTATION OF SECRETARY OF STATE.—Subsection (a) of section 1031 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2637), is amended—[5]

(1) by striking out "fiscal year 1997" and inserting in lieu thereof "fiscal years 1997 and 1998"; and

(2) by inserting after the first sentence the following new sentence: "In providing support to the Government of Mexico under this section, the Secretary of Defense shall consult with the Secretary of State.".

(b) EXTENSION OF AVAILABILITY OF FUNDS.—Subsection (d) of such section is amended—

(1) by striking out "not more than" and inserting in lieu thereof "an amount not to exceed"; and

(2) by adding at the end the following new sentences: "Funds made available for fiscal year 1997 under this subsection and unobligated by September 30, 1997, may be obligated during fiscal year 1998. No funds are authorized to be appropriated for fiscal year 1998 for the provision of support under this section.".

[4] Sec. 1031 amended 32 U.S.C. 112.
[5] For sec. 1031 of Public Law 104–201, see page 966.

SEC. 1033. AUTHORITY TO PROVIDE ADDITIONAL SUPPORT FOR COUNTER-DRUG ACTIVITIES OF OTHER COUNTRIES.[6]

(a) AUTHORITY TO PROVIDE SUPPORT.—(1)[7] Subject to subsection (f),[8] the Secretary of Defense may provide any[9] of the foreign governments named in subsection (b) with the support described in subsection (c) for the counter-drug activities of that government. In providing support to a government under this section, the Secretary of Defense shall consult with the Secretary of State.

(2)[10] The authority to provide support to a government under this section expires September 30, 2006. The support provided under the authority of this section shall be in addition to support provided to the governments under any other provision of law.

(b) GOVERNMENTS ELIGIBLE TO RECEIVE SUPPORT.—The foreign governments eligible to receive counter-drug support under this section are as follows:

(1) The Government of Peru.[11]

(2) The Government of Colombia.[12]

(3)[13] The Government of Afghanistan.

(4)[13] The Government of Bolivia.

(5)[13] The Government of Ecuador.

(6)[13] The Government of Pakistan.

(7)[13] The Government of Tajikistan.

(8)[13] The Government of Turkmenistan.

(9)[13] The Government of Uzbekistan.

(c) TYPES OF SUPPORT.—The authority under subsection (a) is limited to the provision of the following types of support to a government named in subsection (b):

(1) The types of support specified in paragraphs (1), (2), and (3) of section 1031(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2637).

(2) The transfer of[14] patrol boats.

(3) The maintenance and repair or upgrade[15] of equipment of the government that is used for counter-drug activities.

(d) APPLICABILITY OF OTHER SUPPORT AUTHORITIES.—Except as otherwise provided in this section, the provisions of section 1004 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 374 note) shall apply to the provision of support under this section.

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[6] Sec. 1021(f)(2) of Public Law 108–136 (117 Stat. 1594) struck out "**PERU AND COLOMBIA**" and inserted in lieu thereof "**OTHER COUNTRIES**".

[7] Sec. 1021(a)(1) of Public Law 108–136 (117 Stat. 1593) inserted "(1)" before "Subject to".

[8] Sec. 1021(a)(1) of Public Law 106–398 (114 Stat. 1654A–625) struck out "during fiscal years 1998 through 2002," at this point.

[9] Sec. 1021(a)(2) of Public Law 108–136 (117 Stat. 1593) struck out "either or both" and inserted in lieu thereof "any".

[10] Sec. 1021(a)(3) of Public Law 108–136 (117 Stat. 1593) inserted para. (2) and its first sentence after the second sentence of para. (1). The second sentence in para. (2) was enacted in the original.

[11] Sec. 1021(f)(1)(A) of Public Law 108–136 (117 Stat. 1594) struck out ", for fiscal years 1998 through 2002". Previously, sec. 1021(a)(2)(A) of Public Law 106–398 (114 Stat. 1654A–626) inserted the same text.

[12] Sec. 1021(f)(1)(B) of Public Law 108–136 (117 Stat. 1594) struck out ", for fiscal years 1998 through 2006". Previously, sec. 1021(a)(2)(B) of Public Law 106–398 (114 Stat. 1654A–626) inserted the same text.

[13] Sec. 1021(b) of Public Law 108–136 (117 Stat. 1593) added paras. (3) through (9).

[14] Sec. 1021(c)(1) of Public Law 108–136 (117 Stat. 1593) struck out "riverine" at this point.

[15] Sec. 1021(c)(2) of Public Law 108–136 (117 Stat. 1593) inserted "or upgrade" after "maintenance and repair".

(e) FISCAL YEAR 1998 FUNDING; LIMITATION ON OBLIGATIONS.—(1) Of the amount authorized to be appropriated under section 301(20) for drug interdiction and counter-drug activities, an amount not to exceed $9,000,000 shall be available for the provision of support under this section.

(2) Amounts made available to carry out this section shall remain available until expended, except that the total amount obligated and expended under this section may not exceed $20,000,000 during any of the fiscal years 1999 through 2003, or $40,000,000 during any of the fiscal years 2004 through 2006.[16]

(f) CONDITION ON PROVISION OF SUPPORT.—(1) The Secretary of Defense may not obligate or expend funds during a fiscal year to provide support under this section to a government named in subsection (b) until the end of the 15-day period beginning on the date on which the Secretary submits to the congressional committees the written certification described in subsection (g) for that fiscal year.

(2) In the case of the first fiscal year in which support is to be provided under this section to a government named in subsection (b), the obligation or expenditure of funds under this section to provide support to that government shall also be subject to the condition that—

(A) the Secretary submit to the congressional committees the[17] counter-drug plan described in subsection (h); and

(B) a period of 60 days expires after the date on which the report is submitted.

(3) In the case of subsequent fiscal years in which support is to be provided under this section to a government named in subsection (b), the obligation or expenditure of funds under this section to provide support to that government shall also be subject to the condition that the Secretary submit to the congressional committees any revision of the counter-drug plan described in subsection (h) applicable to that government.

(4) For purposes of this subsection, the term "congressional committees" means the following:

(A) The Committee on Armed Services and the Committee on Foreign Relations of the Senate.

(B) The Committee on Armed Services[18] and the Committee on International Relations of the House of Representatives.

(g) REQUIRED CERTIFICATION.—The written certification required by subsection (f)(1) for a fiscal year is a certification of the following with respect to each government to receive support under this section:

(1) That the provision of the support to the government will not adversely affect the military preparedness of the United States Armed Forces.

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[16] Sec. 1021(d) of Public Law 108–136 (117 Stat. 1594) struck out "$20,000,000 during any of the fiscal years 1999 through 2006" and inserted in lieu thereof "$20,000,000 during any of the fiscal years 1999 through 2003, or $40,000,000 during any of the fiscal years 2004 through 2006".Previously, sec. 1021(b) of Public Law 106–398 (114 Stat. 1654A–626) struck out "2002" and inserted in lieu thereof "2006".

[17] Sec. 1021(e)(2) of Public Law 108–136 (117 Stat. 1594) struck out "riverine" at this point.

[18] Sec. 1067(4) of Public Law 106–65 (113 Stat. 774) struck out "Committee on National Security" and inserted in lieu thereof "Committee on Armed Services".

(2) That the equipment and materiel provided as support will be used only by officials and employees of the government who have undergone background investigations by that government and have been approved by that government to perform counter-drug activities on the basis of the background investigations.

(3) That the government has certified to the Secretary of Defense that—

(A) the equipment and materiel provided as support will be used only by the officials and employees referred to in paragraph (2);

(B) none of the equipment or materiel will be transferred (by sale, gift, or otherwise) to any person or entity not authorized by the United States to receive the equipment or materiel; and

(C) the equipment and materiel will be used only for the purposes intended by the United States Government.

(4) That the government has implemented, to the satisfaction of the Secretary of Defense, a system that will provide an accounting and inventory of the equipment and materiel provided as support.

(5) That the departments, agencies, and instrumentalities of the government will grant United States Government personnel access to any of the equipment or materiel provided as support, or to any of the records relating to such equipment or materiel, under terms and conditions similar to the terms and conditions imposed with respect to such access under section 505(a)(3) of the Foreign Assistance Act of 1961 (22 U.S.C. 2314(a)(3)).

(6) That the government will provide security with respect to the equipment and materiel provided as support that is substantially the same degree of security that the United States Government would provide with respect to such equipment and materiel.

(7) That the government will permit continuous observation and review by United States Government personnel of the use of the equipment and materiel provided as support under terms and conditions similar to the terms and conditions imposed with respect to such observation and review under section 505(a)(3) of the Foreign Assistance Act of 1961 (22 U.S.C. 2314(a)(3)).

(h)[19] COUNTER-DRUG PLAN.—The Secretary of Defense, in consultation with the Secretary of State, shall prepare for fiscal year 2004[20] (and revise as necessary for subsequent fiscal years) a[21] counter-drug plan involving the governments named in subsection (b) to which support will be provided under this section. The plan for a fiscal year shall include the following with respect to each government to receive support under this section:

[19] Sec. 1021(e)(1)(A) of Public Law 108–136 (117 Stat. 1594) struck out "RIVERINE" from subsec. (h) heading.

[20] Sec. 1021(e)(1)(B)(i) of Public Law 108–136 (117 Stat. 1594) struck out "fiscal year 1998" and inserted in lieu thereof "fiscal year 2004".

[21] Sec. 1021(e)(1)(B)(ii) of Public Law 108–136 (117 Stat. 1594) struck out "riverine" at this point.

(1) A detailed security assessment, including a discussion of the threat posed by illicit drug traffickers in the foreign country.

(2) An evaluation of previous and ongoing[22] counter-drug operations by the government.

(3) An assessment of the monitoring of past and current assistance provided by the United States under this section to the government to ensure the appropriate use of such assistance.

(4) A description of the centralized management and coordination among Federal agencies involved in the development and implementation of the plan.

(5) A description of the roles and missions and coordination among agencies of the government involved in the development and implementation of the plan.

(6) A description of the resources to be contributed by the Department of Defense and the Department of State for the fiscal year or years covered by the plan and the manner in which such resources will be utilized under the plan.

(7) For the first fiscal year in which support is to be provided under this section, a schedule for establishing a[22] counter-drug program that can be sustained by the government within five years, and for subsequent fiscal years, a description of the progress made in establishing and carrying out the program.

(8) A reporting system to measure the effectiveness of the[22] counter-drug program.

(9) A detailed discussion of how the[22] counter-drug program supports the national drug control strategy of the United States.

SEC. 1034.[23] ANNUAL REPORT ON DEVELOPMENT AND DEPLOYMENT OF NARCOTICS DETECTION TECHNOLOGIES.

(a) REPORT REQUIREMENT.—Not later than December 1st of each year, the Director of the Office of National Drug Control Policy shall submit to Congress and the President a report on the development and deployment of narcotics detection technologies by Federal agencies. Each such report shall be prepared in consultation with the Secretary of Defense, the Secretary of State, the Secretary of Transportation, and the Secretary of the Treasury.

(b) MATTERS TO BE INCLUDED.—Each report under subsection (a) shall include—

(1) a description of each project implemented by a Federal agency relating to the development or deployment of narcotics detection technology;

(2) the agency responsible for each project described in paragraph (1);

(3) the amount of funds obligated or expended to carry out each project described in paragraph (1) during the fiscal year in which the report is submitted or during any fiscal year preceding the fiscal year in which the report is submitted;

[22] Sec. 1021(e)(1)(C) of Public Law 108–136 (117 Stat. 1594) struck out "riverine" at points in paras. (2), (7), (8), and (9).

[23] 21 U.S.C. 1505a.

(4) the amount of funds estimated to be obligated or expended for each project described in paragraph (1) during any fiscal year after the fiscal year in which the report is submitted to Congress; and

(5) a detailed timeline for implementation of each project described in paragraph (1).

Subtitle D—Miscellaneous Report Requirements and Repeals

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SEC. 1043. OVERSEAS INFRASTRUCTURE REQUIREMENTS.

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

(1) United States military forces have been withdrawn from the Philippines.

(2) United States military forces are to be withdrawn from Panama by 2000.

(3) There continues to be local opposition to the continued presence of United States military forces in Okinawa.

(4) The Quadrennial Defense Review lists "the loss of U.S. access to critical facilities and lines of communication in key regions" as one of the so-called "wild card" scenarios covered in the review.

(5) The National Defense Panel states that "U.S. forces' long-term access to forward bases, to include air bases, ports, and logistics facilities, cannot be assumed".

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

(1) the President should develop alternatives to the current arrangement for forward basing of the Armed Forces outside the United States, including alternatives to the existing infrastructure for forward basing of forces and alternatives to the existing international agreements that provide for basing of United States forces in foreign countries; and

(2) because the Pacific Rim continues to emerge as a region of significant economic and military importance to the United States, a continued presence of the Armed Forces in that region is vital to the capability of the United States to timely protect its interests in the region.

(c) REPORT REQUIRED.—Not later than March 31, 1998, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the overseas infrastructure requirements of the Armed Forces.

(d) CONTENT.—The report shall contain the following:

(1) The quantity and types of forces that the United States must station in each region of the world in order to support the current national military strategy of the United States.

(2) The quantity and types of forces that the United States will need to station in each region of the world in order to meet the expected or potential future threats to the national security interests of the United States.

(3) The requirements for access to, and use of, air space and ground maneuver areas in each such region for training for the

quantity and types of forces identified for the region pursuant to paragraphs (1) and (2).

(4) A list of the international agreements, currently in force, that the United States has entered into with foreign countries regarding the basing of United States forces in those countries and the dates on which the agreements expire.

(5) A discussion of any anticipated political opposition or other opposition to the renewal of any of those international agreements.

(6) A discussion of future overseas basing requirements for United States forces, taking into account expected changes in national security strategy, national security environment, and weapons systems.

(7) The expected costs of maintaining the overseas infrastructure for foreign based forces of the United States, including the costs of constructing any new facilities that will be necessary overseas to meet emerging requirements relating to the national security interests of the United States.

(e) FORM OF REPORT.—The report may be submitted in a classified or unclassified form.

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Subtitle E—Matters Relating to Terrorism

SEC. 1051.[24] OVERSIGHT OF COUNTERTERRORISM AND ANTITERRORISM ACTIVITIES; REPORT.

(a) OVERSIGHT OF COUNTERTERRORISM AND ANTITERRORISM ACTIVITIES.—Not later than 120 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall—

(1) establish a reporting system for executive agencies with respect to the budget and expenditure of funds by such agencies for the purpose of carrying out counterterrorism and antiterrorism programs and activities; and

(2) using such reporting system, collect information on—

(A) the budget and expenditure of funds by executive agencies during the current fiscal year for purposes of carrying out counterterrorism and antiterrorism programs and activities; and

(B) the specific programs and activities for which such funds were expended.

(b)[25] REPORT.—Not later that March 1 of each year, the President shall submit to Congress a report in classified and unclassified form (using the information described in subsection (a)(2)) describing, for each executive agency and for the executive branch as a whole, the following:

(1) The amounts proposed to be expended for counterterrorism and antiterrorism programs and activities for the fiscal year beginning in the calendar year in which the report is submitted.

[24] 31 U.S.C. 1113 note. See also 10 U.S.C. 229.

[25] In a memorandum of March 5,1998 (63 F.R. 12377), the President delegated this reporting requirement to the Director of the Office of Management and Budget.

(2) The amounts proposed to be expended for counterterrorism and antiterrorism programs and activities for the fiscal year in which the report is submitted and the amounts that have already been expended for such programs and activities for that fiscal year.

(3) The specific counterterrorism and antiterrorism programs and activities being implemented, any priorities with respect to such programs and activities, and whether there has been any duplication of efforts in implementing such programs and activities.

(c)[26] ANNEX ON DOMESTIC EMERGENCY PREPAREDNESS PROGRAM.—As part of the annual report submitted to Congress under subsection (b), the President shall include an annex which provides the following information on the domestic emergency preparedness program for response to terrorist incidents involving weapons of mass destruction (as established under section 1402 of the Defense Against Weapons of Mass Destruction Act of 1998):

(1) Information on program responsibilities for each participating Federal department, agency, and bureau.

(2) A summary of program activities performed during the preceding fiscal year for each participating Federal department, agency, and bureau.

(3) A summary of program obligations and expenditures during the preceding fiscal year for each participating Federal department, agency, and bureau.

(4) A summary of the program plan and budget for the current fiscal year for each participating Federal department, agency, and bureau.

(5) The program budget request for the following fiscal year for each participating Federal department, agency, and bureau.

(6) Recommendations for improving Federal, State, and local domestic emergency preparedness to respond to incidents involving weapons of mass destruction that have been made by the advisory panel to assess the capabilities of domestic response to terrorism involving weapons of mass destruction (as established under section 1405 of the Defense Against Weapons of Mass Destruction Act of 1998), and actions taken as a result of such recommendations.

(7) Additional program measures and legislative authority for which congressional action may be required.

SEC. 1052.[27] PROVISION OF ADEQUATE TROOP PROTECTION EQUIPMENT FOR ARMED FORCES PERSONNEL ENGAGED IN PEACE OPERATIONS; REPORT ON ANTITERRORISM ACTIVITIES AND PROTECTION OF PERSONNEL.

(a) PROTECTION OF PERSONNEL.—The Secretary of Defense shall take appropriate actions to ensure that units of the Armed Forces engaged in a peace operation are provided adequate troop protection equipment for that operation.

(b) SPECIFIC ACTIONS.—In taking actions under subsection (a), the Secretary shall—

[26] 50 U.S.C. 2301 note. Sec. 1403 of Public Law 105–261 (112 Stat. 2168) added subsec. (c).
[27] 10 U.S.C. 113 note.

(1) identify the additional troop protection equipment, if any, required to equip a division (or the equivalent of a division) with adequate troop protection equipment for peace operations; and

(2) establish procedures to facilitate the exchange or transfer of troop protection equipment among units of the Armed Forces.

(c) DESIGNATION OF RESPONSIBLE OFFICIAL.—The Secretary of Defense shall designate an official within the Department of Defense to be responsible for—

(1) ensuring the appropriate allocation of troop protection equipment among the units of the Armed Forces engaged in peace operations; and

(2) monitoring the availability, status or condition, and location of such equipment.

(d) TROOP PROTECTION EQUIPMENT DEFINED.—In this section, the term "troop protection equipment" means the equipment required by units of the Armed Forces to defend against any hostile threat that is likely during a peace operation, including an attack by a hostile crowd, small arms fire, mines, and a terrorist bombing attack.

(e) REPORT ON ANTITERRORISM ACTIVITIES OF THE DEPARTMENT OF DEFENSE AND PROTECTION OF PERSONNEL.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report, in classified and unclassified form, on antiterrorism activities of the Department of Defense and the actions taken by the Secretary under subsections (a), (b), and (c). The report shall include the following:

(1) A description of the programs designed to carry out antiterrorism activities of the Department of Defense, any deficiencies in those programs, and any actions taken by the Secretary to improve implementation of such programs.

(2) An assessment of the current policies and practices of the Department of Defense with respect to the protection of members of the Armed Forces overseas against terrorist attack, including any modifications to such policies or practices that are proposed or implemented as a result of the assessment.

(3) An assessment of the procedures of the Department of Defense for determining accountability, if any, in the command structure of the Armed Forces in instances in which a terrorist attack results in the loss of life at an overseas military installation or facility.

(4) A detailed description of the roles of the Office of the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, the Secretaries of the military departments, and the combatant commanders in providing guidance and support with respect to the protection of members of the Armed Forces deployed overseas against terrorist attack (both before and after the November 1995 bombing in Riyadh, Saudi Arabia) and how these roles have changed since the June 25, 1996, terrorist bombing at Khobar Towers in Dhahran, Saudi Arabia.

(5) A description of the actions taken by the Secretary of Defense under subsections (a), (b), and (c) to provide adequate

troop protection equipment for units of the Armed Forces engaged in a peace operation.

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Subtitle F—Matters Relating to Defense Property

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SEC. 1064. AUTHORITY OF THE SECRETARY OF DEFENSE CONCERNING DISPOSAL OF ASSETS UNDER COOPERATIVE AGREEMENTS ON AIR DEFENSE IN CENTRAL EUROPE.

(a) GENERAL AUTHORITIES.—The Secretary of Defense, pursuant to an amendment or amendments to the European air defense agreements, may dispose of any defense articles owned by the United States and acquired to carry out such agreements by providing such articles to the Federal Republic of Germany. In carrying out such disposal, the Secretary—

(1) may provide without monetary charge to the Federal Republic of Germany articles specified in the agreements; and

(2) may accept from the Federal Republic of Germany (in exchange for the articles provided under paragraph (1)) articles, services, or any other consideration, as determined appropriate by the Secretary.

(b) DEFINITION OF EUROPEAN AIR DEFENSE AGREEMENTS.—For the purposes of this section, the term "European air defense agreements" means—

(1) the agreement entitled "Agreement between the Secretary of Defense of the United States of America and the Minister of Defense of the Federal Republic of Germany on Cooperative Measures for Enhancing Air Defense for Central Europe", signed on December 6, 1983; and

(2) the agreement entitled "Agreement between the Secretary of Defense of the United States of America and the Minister of Defense of the Federal Republic of Germany in implementation of the 6 December 1983 Agreement on Cooperative Measures for Enhancing Air Defense for Central Europe", signed on July 12, 1984.

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TITLE XII—MATTERS RELATING TO OTHER NATIONS

Subtitle A—United States Armed Forces in Bosnia and Herzegovina

Sec. 1201. Findings.
Sec. 1202. Sense of Congress.
Sec. 1203. Withdrawal of United States ground forces from Republic of Bosnia and Herzegovina.
Sec. 1204. Secretary of Defense reports on tasks carried out by United States forces.
Sec. 1205. Presidential report on situation in Republic of Bosnia and Herzegovina.
Sec. 1206. Definitions.

Subtitle B—Export Controls on High Performance Computers

Sec. 1211. Export approvals for high performance computers.
Sec. 1212. Report on exports of high performance computers.
Sec. 1213. Post-shipment verification of export of high performance computers.
Sec. 1214. GAO study on certain computers; end user information assistance.
Sec. 1215. Congressional committees.

Subtitle C—Other Matters

Sec. 1221. Defense burdensharing.
Sec. 1222. Temporary use of general purpose vehicles and nonlethal military equipment under acquisition and cross servicing agreements.
Sec. 1223. Sense of Congress and reports regarding financial costs of enlargement of the North Atlantic Treaty Organization.
Sec. 1224. Sense of Congress regarding enlargement of the North Atlantic Treaty Organization.
Sec. 1225. Sense of the Congress relating to level of United States military personnel in the East Asia and Pacific region.
Sec. 1226. Report on future military capabilities and strategy of the People's Republic of China.
Sec. 1227. Sense of Congress on need for Russian openness on the Yamantau Mountain project.
Sec. 1228. Assessment of the Cuban threat to United States national security.
Sec. 1229. Report on Helsinki Joint Statement.
Sec. 1230. Commendation of Mexico on free and fair elections.
Sec. 1231. Sense of Congress regarding Cambodia.
Sec. 1232. Congratulating Governor Christopher Patten of Hong Kong.

Subtitle A—United States Armed Forces in Bosnia and Herzegovina

SEC. 1201. FINDINGS.

The Congress finds the following:

(1) United States Armed Forces were deployed to the Republic of Bosnia and Herzegovina as part of the North Atlantic Treaty Organization (NATO) Implementation Force (IFOR) to implement the military aspects of the Dayton Peace Agreement.

(2) The military aspects of the Dayton Peace Agreement have been successfully implemented to date with the military forces of the warring factions successfully separated and a cessation in the hostilities that resulted in the deaths of hundreds of thousands of Bosnians.

(3) Implementation of the civil aspects of the Dayton Peace Agreement has lagged far behind the schedule for such implementation envisioned in the Agreement with the result that United States Armed Forces have undertaken a prolonged engagement in the Republic of Bosnia and Herzegovina.

(4) On December 13, 1995, the President stated in a letter to Congress, "NATO and U.S. military commanders believe, and I expect, that the military mission can be accomplished in about a year. Twelve months will allow IFOR time to complete the military tasks assigned in the Dayton agreement and to establish a secure environment, in which political and economic reconstruction efforts by the parties and international civilian agencies can take hold. Within one year, we expect that the military provisions of the Dayton agreement will have been carried out, implementation of the civilian aspects and economic reconstruction will have been firmly launched, free elections will have been held under international supervision and a stable military balance will have been established."

(5) Notwithstanding a number of assurances relating to the accomplishment of the military mission in the Republic of Bosnia and Herzegovina by December 1996, the President, on November 15, 1996, announced his decision to extend the presence of United States forces in the Republic of Bosnia and

Herzegovina to participate in the NATO Stabilization Force (SFOR) until June 1998.

(6) Despite initial projections by the Department of Defense that the costs of United States operations in the Republic of Bosnia and Herzegovina would total $1,500,000,000, the projected cost of United States operations in the Republic of Bosnia and Herzegovina through June 1998 is estimated to exceed $7,000,000,000.

(7) The fiscal year 1998 estimate of the Department of Defense for operations in the Republic of Bosnia and Herzegovina assumes that the level of military forces participating in SFOR will be reduced soon after the start of the fiscal year.

(8) The President and the Secretary of Defense have stated that United States forces are to be withdrawn from the Republic of Bosnia and Herzegovina by the end of June 1998.

SEC. 1202. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) United States ground combat forces should not participate in a follow-on force in the Republic of Bosnia and Herzegovina after June 1998;

(2) the European Security and Defense Identity, which, as facilitated by the Combined Joint Task Forces concept, enables the Western European Union, with the consent of the North Atlantic Alliance, to assume political control and strategic direction of NATO assets made available for the Alliance, may be an ideal instrument for a follow-on force for the Republic of Bosnia and Herzegovina;

(3) a NATO-led force without the participation of United States ground combat forces in the Republic of Bosnia and Herzegovina may be suitable for a follow-on force for the Republic of Bosnia and Herzegovina if the European Security and Defense Identity is not sufficiently developed or is otherwise considered inappropriate for such a mission;

(4) the United States may decide to provide appropriate support to a Western European Union-led or NATO-led follow-on force, including command and control, intelligence, logistics, and, if necessary, a ready reserve force in the region;

(5) the President should inform our European NATO allies of this expression of the sense of Congress and should urge them strongly to undertake preparations for a Western European Union-led or NATO-led force as a follow-on force to the NATO-led SFOR if needed to maintain peace and stability in the Republic of Bosnia and Herzegovina; and

(6) the President should consult with the Congress with respect to any support to be provided to a Western European Union-led or NATO-led follow-on force in the Republic of Bosnia and Herzegovina after June 30, 1998.

SEC. 1203.[28] WITHDRAWAL OF UNITED STATES GROUND FORCES FROM REPUBLIC OF BOSNIA AND HERZEGOVINA .

(a) LIMITATION.—No funds appropriated or otherwise made available for the Department of Defense for fiscal year 1998 or any sub-

[28] 10 U.S.C. 114 note.

sequent fiscal year may be used for the deployment of any United States ground combat forces in the Republic of Bosnia and Herzegovina after June 30, 1998, unless the President, not later than May 15, 1998, and after consultation with the bipartisan leadership of the two Houses of Congress, transmits to Congress a certification—

(1) that the continued presence of United States ground combat forces, after June 30, 1998, in the Republic of Bosnia and Herzegovina is required in order to meet the national security interests of the United States; and

(2) that after June 30, 1998, it will remain United States policy that United States ground forces will not serve as, or be used as, civil police in the Republic of Bosnia and Herzegovina.

(b) REPORT.—The President shall submit with the certification under subsection (a) a report that includes the following:

(1) The reasons why that presence is in the national security interest of the United States.

(2) The number of United States military personnel to be deployed in and around the Republic of Bosnia and Herzegovina and other areas of the former Yugoslavia after that date.

(3) The expected duration of any such deployment.

(4) The mission and objectives of the United States Armed Forces to be deployed in and around the Republic of Bosnia and Herzegovina and other areas of the former Yugoslavia after June 30, 1998.

(5) The exit strategy of such forces.

(6) The incremental costs associated with any such deployment.

(7) The effect of such deployment on the morale, retention, and effectiveness of United States armed forces.

(8) A description of the forces from other nations involved in a follow-on mission, shown on a nation-by-nation basis.

(9) A description of the command and control arrangement established for United States forces involved in a follow-on mission.

(10) An assessment of the expected threats to United States forces involved in a follow-on mission.

(11) The plan for rotating units and personnel to and from the Republic of Bosnia and Herzegovina during a follow-on mission, including the level of participation by reserve component units and personnel.

(12) The mission statement and operational goals of the United States forces involved in a follow-on mission.

(c) REQUEST FOR SUPPLEMENTAL APPROPRIATIONS.—The President shall transmit to Congress with a certification under subsection (a) a supplemental appropriations request for the Department of Defense for such amounts as are necessary for the costs of any continued deployment beyond June 30, 1998.

(d) CONSTRUCTION WITH PRESIDENT'S CONSTITUTIONAL AUTHORITY.—Nothing in this section shall be deemed to restrict the authority of the President under the Constitution to protect the lives of United States citizens.

(e) CONSTRUCTION WITH APPROPRIATIONS PROVISION.—The provisions of this section are enacted, and shall be applied, as supple-

mental to (and not in lieu of) the provisions of section 8132 of the Department of Defense Appropriations Act, 1998 (Public Law 105–56).

SEC. 1204. SECRETARY OF DEFENSE REPORTS ON TASKS CARRIED OUT BY UNITED STATES FORCES.

(a) REQUIREMENT FOR TWO REPORTS.—The Secretary of Defense shall submit to the congressional defense committees—

(1) not later than December 15, 1997, a report identifying each activity being carried out, as of December 1, 1997, by covered United States forces in the Republic of Bosnia and Herzegovina; and

(2) not later than April 15, 1998, a report identifying each activity being carried out, as of April 1, 1998, by covered United States forces in the Republic of Bosnia and Herzegovina.

(b) COVERED UNITED STATES FORCES.—For purposes of this section, covered United States forces in the Republic of Bosnia and Herzegovina are United States ground forces in the Republic of Bosnia and Herzegovina that are assigned to the multinational peacekeeping force known as the Stabilization Force (SFOR) or any other multinational peacekeeping force that is the successor to the SFOR.

(c) MATTERS TO BE INCLUDED.—The Secretary shall include in each report under subsection (a), for each activity identified under that subsection, the following:

(1) The number of United States military personnel involved in the performance of that activity.

(2) Whether forces assigned to the SFOR (or successor multinational peacekeeping force) from other nations also participated in that activity.

(3) The justification for using military forces rather than civilian organizations to perform that activity.

(4) In the case of activities that (as determined by the Secretary) are considered to be supporting tasks, as that term is used in paragraph 3 of Article VI of Annex 1–A to the General Framework Agreement for Peace in Bosnia and Herzegovina, the justification for using military forces.

(5) The likelihood that each such activity will have to be carried out by United States military forces after June 30, 1998.

SEC. 1205. PRESIDENTIAL REPORT ON SITUATION IN REPUBLIC OF BOSNIA AND HERZEGOVINA.

(a) REQUIREMENT.—Not later than February 1, 1998, the President shall submit to Congress a report on the political and military conditions in the Republic of Bosnia and Herzegovina. The report shall be submitted in both classified and unclassified form.

(b) MATTERS TO BE INCLUDED.—The report under subsection (a) shall include a discussion of the following:

(1) An assessment of the progress made in implementing the civil, economic, and political aspects of the Dayton Peace Agreement.

(2) An identification of the specific steps taken to transfer the United States portion of the peacekeeping mission in the Republic of Bosnia and Herzegovina to forces of the member-

states of the Western European Union or to a NATO-led force without the participation of United States ground combat forces in the Republic of Bosnia and Herzegovina.

(3) A detailed discussion of the proposed role and involvement of the United States in supporting peacekeeping activities in the Republic of Bosnia and Herzegovina following the withdrawal of United States ground combat forces from the Republic of Bosnia and Herzegovina.

(4) A detailed explanation and timetable for carrying out the commitment to withdraw all United States ground forces from the Republic of Bosnia and Herzegovina by June 30, 1998, including the planned date of commencement and completion of the withdrawal.

(5) The military and political considerations that will affect the decision to carry out such a transition.

(6) Any plan to maintain or expand other Bosnia-related operations (such as the operations designated as Operation Deliberate Guard) if tensions in the Republic of Bosnia and Herzegovina remain sufficient to delay reductions of United States military forces participating in the Stabilization Force and the estimated cost associated with each such operation.

SEC. 1206.[29] DEFINITIONS.

As used in this subtitle:

(1) DAYTON PEACE AGREEMENT.—The term "Dayton Peace Agreement" means the General Framework Agreement for Peace in Bosnia and Herzegovina, initialed by the parties in Dayton, Ohio, on November 21, 1995, and signed in Paris on December 14, 1995.

(2) IMPLEMENTATION FORCE.—The term "Implementation Force" means the NATO-led multinational military force in the Republic of Bosnia and Herzegovina (commonly referred to as "IFOR"), authorized under the Dayton Peace Agreement.

(3) STABILIZATION FORCE.—The term "Stabilization Force" means the NATO-led follow-on force to the Implementation Force in the Republic of Bosnia and Herzegovina and other countries in the region (commonly referred to as "SFOR"), authorized under United Nations Security Council Resolution 1088 (December 12, 1996).

(4) FOLLOW-ON MISSION.—The term "follow-on mission" means a mission involving the deployment of ground elements of the United States Armed Forces in the Republic of Bosnia and Herzegovina after June 30, 1998 (other than as described in section 1203(b)).

(5) NATO.—The term "NATO" means the North Atlantic Treaty Organization.

[29] 10 U.S.C. 114 note.

Subtitle B—Export Controls on High Performance Computers[30]

SEC. 1211.[31] EXPORT APPROVALS FOR HIGH PERFORMANCE COMPUTERS.

(a) PRIOR APPROVAL OF EXPORTS AND REEXPORTS.—The President shall require that no digital computer with a composite theoretical performance level of more than 2,000 millions of theoretical operations per second (MTOPS) or with such other composite theoretical performance level as may be established subsequently by the President under subsection (d), may be exported or reexported without a license to a country specified in subsection (b) if the Secretary of Commerce, the Secretary of Defense, the Secretary of Energy, the Secretary of State, or the Director of the Arms Control and Disarmament Agency objects, in writing, to such export or reexport. Any person proposing to export or reexport such a digital computer shall so notify the Secretary of Commerce, who, within 24 hours after receiving the notification, shall transmit the notification to the Secretary of Defense, the Secretary of Energy, the Secretary of State, and the Director of the Arms Control and Disarmament Agency.

(b) COVERED COUNTRIES.—For purposes of subsection (a), the countries specified in this subsection are the countries listed as "Computer Tier 3" eligible countries in section 740.7(d) of title 15 of the Code of Federal Regulations, as in effect on June 10, 1997, subject to modification by the President under subsection (e).

(c) TIME LIMIT.—Written objections under subsection (a) to an export or reexport shall be raised within 10 days after the notification is received under subsection (a). If such a written objection to the export or reexport of a computer is raised, the computer may be exported or reexported only pursuant to a license issued by the Secretary of Commerce under the Export Administration Regulations of the Department of Commerce, without regard to the licensing exceptions otherwise authorized under section 740.7 of title 15 of the Code of Federal Regulations, as in effect on June 10, 1997. If no objection is raised within the 10-day period, the export or reexport is authorized.

(d) ADJUSTMENT OF COMPOSITE THEORETICAL PERFORMANCE.—The President, in consultation with the Secretary of Commerce, the Secretary of Defense, the Secretary of Energy, the Secretary of State, and the Director of the Arms Control and Disarmament Agency, may establish a new composite theoretical performance level for purposes of subsection (a). Such new level shall not take effect until 180 days after the President submits to the congressional committees designated in section 1215 a report setting forth the new composite theoretical performance level and the justification for such new level. Each report shall, at a minimum—

(1) address the extent to which high performance computers of a composite theoretical level between the level established in subsection (a) or such level as has been previously adjusted

[30] 50 U.S.C. app. 2404 note.

[31] In Public Notice 2747 of February 6, 1998 (63 F.R. 10055), the Secretary of State delegated her authority under this section to the Under Secretary of State for Arms Control and International Security Affairs.

pursuant to this section and the new level, are available from other countries;

(2) address all potential uses of military significance to which high performance computers at the new level could be applied; and

(3) assess the impact of such uses on the national security interests of the United States.

(e) ADJUSTMENT OF COVERED COUNTRIES.—

(1) IN GENERAL.—The President, in consultation with the Secretary of Commerce, the Secretary of Defense, the Secretary of Energy, the Secretary of State, and the Director of the Arms Control and Disarmament Agency, may add a country to or remove a country from the list of covered countries in subsection (b), except that a country may be removed from the list only in accordance with paragraph (2).

(2) DELETIONS FROM LIST OF COVERED COUNTRIES.—The removal of a country from the list of covered countries under subsection (b) shall not take effect until 120 days after the President submits to the congressional committees designated in section 1215 a report setting forth the justification for the deletion.

(3) EXCLUDED COUNTRIES.—A country may not be removed from the list of covered countries under subsection (b) if—

(A) the country is a "nuclear-weapon state" (as defined by Article IX of the Treaty on the Non-Proliferation of Nuclear Weapons) and the country is not a member of the North Atlantic Treaty Organization; or

(B) the country is not a signatory of the Treaty on the Non-Proliferation of Nuclear Weapons and the country is listed on Annex 2 to the Comprehensive Nuclear Test-Ban Treaty.

(f) CLASSIFICATION.—Each report under subsections (d) and (e) shall be submitted in an unclassified form and may, if necessary, have a classified supplement.

(g)[32] DELEGATION OF OBJECTION AUTHORITY WITHIN THE DEPARTMENT OF DEFENSE.—For the purposes of the Department of Defense, the authority to issue an objection referred to in subsection (a) shall be executed for the Secretary of Defense by an official at the Assistant Secretary level within the office of the Under Secretary of Defense for Policy. In implementing subsection (a), the Secretary of Defense shall ensure that Department of Defense procedures maximize the ability of the Department of Defense to be able to issue an objection within the 10-day period specified in subsection (c).

SEC. 1212.[33] REPORT ON EXPORTS OF HIGH PERFORMANCE COMPUTERS.

(a) REPORT.—Not later than 60 days after the date of the enactment of this Act, the President shall provide to the congressional committees specified in section 1215 a report identifying all exports of digital computers with a composite theoretical performance of

[32] Added by sec. 1524 of Public Law 105–261 (112 Stat. 2180).

[33] The President delegated the authority in this section to the Secretary of Commerce in a memorandum of December 19, 1997 (62 F.R. 67547).

more than 2,000 millions of theoretical operations per second (MTOPS) to all countries since January 25, 1996. For each export, the report shall identify—

(1) whether an export license was applied for and whether one was granted;

(2) the date of the transfer of the computer;

(3) the United States manufacturer and exporter of the computer;

(4) the MTOPS level of the computer; and

(5) the recipient country and end user.

(b) ADDITIONAL INFORMATION ON EXPORTS TO CERTAIN COUNTRIES.—In the case of exports to countries specified in subsection (c), the report under subsection (a) shall identify the intended end use for the exported computer and the assessment by the executive branch of whether the end user is a military end user or an end user involved in activities relating to nuclear, chemical, or biological weapons or missile technology. Information provided under this subsection may be submitted in classified form if necessary.

(c) COVERED COUNTRIES.—For purposes of subsection (b), the countries specified in this subsection are—

(1) the countries listed as "Computer Tier 3" eligible countries in section 740.7(d) of title 15 of the Code of Federal Regulations, as in effect on June 10, 1997; and

(2) the countries listed in section 740.7(e) of title 15 of the Code of Federal Regulations, as in effect on June 10, 1997.

SEC. 1213. POST-SHIPMENT VERIFICATION OF EXPORT OF HIGH PERFORMANCE COMPUTERS.

(a) REQUIRED POST-SHIPMENT VERIFICATION.—The Secretary of Commerce shall conduct post-shipment verification of each digital computer with a composite theoretical performance of more than 2,000 millions of theoretical operations per second (MTOPS) that is exported from the United States, on or after the date of the enactment of this Act, to a country specified in subsection (b).

(b) COVERED COUNTRIES.—For purposes of subsection (a), the countries specified in this subsection are the countries listed as "Computer Tier 3" eligible countries in section 740.7 of title 15 of the Code of Federal Regulations, as in effect on June 10, 1997, subject to modification by the President under section 1211(e).

(c) ANNUAL REPORT.—The Secretary of Commerce shall submit to the congressional committees specified in section 1215 an annual report on the results of post-shipment verifications conducted under this section during the preceding year. Each such report shall include a list of all such items exported from the United States to such countries during the previous year and, with respect to each such export, the following:

(1) The destination country.

(2) The date of export.

(3) The intended end use and intended end user.

(4) The results of the post-shipment verification.

(d) EXPLANATION WHEN VERIFICATION NOT CONDUCTED.—If a post-shipment verification has not been conducted in accordance with subsection (a) with respect to any such export during the period covered by a report, the Secretary shall include in the report

for that period a detailed explanation of the reasons why such a post-shipment verification was not conducted.

(e)[34] ADJUSTMENT OF PERFORMANCE LEVELS.—Whenever a new composite theoretical performance level is established under section 1211(d), that level shall apply for purposes of subsection (a) of this section in lieu of the level set forth in subsection (a).

SEC. 1214. GAO STUDY ON CERTAIN COMPUTERS; END USER INFORMATION ASSISTANCE.

(a) IN GENERAL.—The Comptroller General of the United States shall submit to the congressional committees specified in section 1215 a study of the national security risks relating to the sale of computers with a composite theoretical performance of between 2,000 and 7,000 millions of theoretical operations per second (MTOPS) to end users in countries specified in subsection (c). The study shall also analyze any foreign availability of computers described in the preceding sentence and the impact of such sales on United States exporters.

(b) END USER INFORMATION ASSISTANCE TO EXPORTERS.—The Secretary of Commerce shall establish a procedure by which exporters may seek information on questionable end users in countries specified in subsection (c) who are seeking to obtain computers described in subsection (a).

(c) COVERED COUNTRIES.—For purposes of subsections (a) and (b), the countries specified in this subsection are the countries listed as "Computer Tier 3" eligible countries in section 740.7(d) of title 15 of the Code of Federal Regulations, as in effect on June 10, 1997.

SEC. 1215. CONGRESSIONAL COMMITTEES.

For purposes of sections 1211(d), 1212(a), 1213(c), and 1214(a) the congressional committees specified in those sections are the following:

(1) The Committee on Banking, Housing, and Urban Affairs and the Committee on Armed Services of the Senate.

(2) The Committee on International Relations and the Committee on Armed Services[35] of the House of Representatives.

Subtitle C—Other Matters

SEC. 1221.[36] DEFENSE BURDENSHARING.

(a) EFFORTS TO INCREASE ALLIED BURDENSHARING.—The President shall seek to have each nation that has cooperative military relations with the United States (including security agreements, basing arrangements, or mutual participation in multinational military organizations or operations) take one or more of the following actions:

(1) For any nation in which United States military personnel are assigned to permanent duty ashore, increase its financial contributions to the payment of the nonpersonnel costs incurred by the United States Government for stationing United States military personnel in that nation, with a goal of achiev-

[34] Sec. 1407(c) of Public Law 106–65 (113 Stat. 801) added subsec. (e).

[35] Sec. 1067(4) of Public Law 106–65 (113 Stat. 774) struck out "Committee on National Security" and inserted in lieu thereof "Committee on Armed Services".

[36] 22 U.S.C. 1928 note.

ing by September 30, 2000, 75 percent of such costs. An increase in financial contributions by any nation under this paragraph may include the elimination of taxes, fees, or other charges levied on United States military personnel, equipment, or facilities stationed in that nation.

(2) Increase its annual budgetary outlays for national defense as a percentage of its gross domestic product by 10 percent or at least to a level commensurate to that of the United States by September 30, 1999.[37]

(3) Increase its annual budgetary outlays for foreign assistance (to promote democratization, governmental accountability and transparency, economic stabilization and development, defense economic conversion, respect for the rule of law and internationally recognized human rights, and humanitarian relief efforts)[38] by 10 percent or to provide such foreign assistance at an annual rate that is not less than one percent of its gross domestic product, by September 30, 1999.[39]

(4) Increase the[40] military assets (including personnel, equipment, logistics, support and other resources) that it contributes or has pledged to contribute[41] to multinational military activities worldwide by 10 percent by September 30, 1999.[42]

(b) AUTHORITIES TO ENCOURAGE ACTIONS BY UNITED STATES ALLIES.—In seeking the actions described in subsection (a) with respect to any nation, or in response to a failure by any nation to undertake one or more of such actions, the President may take any of the following measures to the extent otherwise authorized by law:

(1) Reduce the end strength level of members of the Armed Forces assigned to permanent duty ashore in that nation.

(2) Impose on that nation fees or other charges similar to those that such nation imposes on United States forces stationed in that nation.

(3) Reduce (through rescission, impoundment, or other appropriate procedures as authorized by law) the amount the United States contributes to the NATO Civil Budget, Military Budget, or Security Investment Program.

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[37] Sec. 1233(a)(1) of Public Law 105–261 (112 Stat. 2156) struck out "September 30, 1998" and inserted in lieu thereof "September 30, 1999".

[38] Sec. 1233(a)(2)(A) of Public Law 105–261 (112 Stat. 2156) struck out "economic stabilization, transparency arrangements, defense economic conversion, respect for the rule of law, and internationally recognized human rights" and inserted in lieu thereof "governmental accountability and transparency, economic stabilization and development, defense economic conversion, respect for the rule of law and internationally recognized human rights, and humanitarian relief efforts)" (resulting in a double close-parentheses, which was subsequently struck out by sec. 1087(e)(1) of Public Law 106–398; 114 Stat. 1654A–723).

[39] Sec. 1233(a)(2)(B) of Public Law 105–261 (112 Stat. 2156) struck out "at least to a level commensurate to that of the United States by September 30, 1998" and inserted in lieu thereof "to provide such foreign assistance at an annual rate that is not less than one percent of its gross domestic product, by September 30, 1999".

[40] Sec. 1233(a)(3)(A) of Public Law 105–261 (112 Stat. 2156) struck out "amount of" preceding "military assets".

[41] Sec. 1233(a)(3)(B) of Public Law 105–261 (112 Stat. 2156) struck out ", or would be prepared to contribute," and inserted in lieu thereof "or has pledged to contribute".

[42] Sec. 1233(a)(3)(C) of Public Law 105–261 (112 Stat. 2156) inserted "by 10 percent by September 30, 1999" at the end of the para.

(4) Suspend, modify, or terminate any bilateral security agreement the United States has with that nation, consistent with the terms of such agreement.

(5) Reduce (through rescission, impoundment or other appropriate procedures as authorized by law) any United States bilateral assistance appropriated for that nation.

(6) Take any other action the President determines to be appropriate as authorized by law.

(c) REPORT ON PROGRESS IN INCREASING ALLIED BURDENSHARING.—Not later than March 1, 1999,[43] the Secretary of Defense shall submit to Congress a report on—

(1) steps taken by other nations to complete the actions described in subsection (a);

(2) all measures taken by the President, including those authorized in subsection (b), to achieve the actions described in subsection (a);

(3) the difference between the amount allocated by other nations for each of the actions described in subsection (a) during the period beginning on October 1, 1996, and ending on September 30, 1997, and during the period beginning on October 1, 1997, and ending on September 30, 1998, or, in the case of any nation for which the data for such periods is inadequate, the difference between the amounts for the latest periods for which adequate data is available;[44] and

(4) the budgetary savings to the United States that are expected to accrue as a result of the steps described under paragraph (1).

(d) REPORT ON NATIONAL SECURITY BASES FOR FORWARD DEPLOYMENT AND BURDENSHARING RELATIONSHIPS.—(1) In order to ensure the best allocation of budgetary resources, the President shall undertake a review of the status of elements of the United States Armed Forces that are permanently stationed outside the United States. The review shall include an assessment of the following:

(A) The alliance requirements that are to be found in agreements between the United States and other countries.

(B) The national security interests that support permanently stationing elements of the United States Armed Forces outside the United States.

(C) The stationing costs associated with the forward deployment of elements of the United States Armed Forces.

(D) The alternatives available to forward deployment (such as material prepositioning, enhanced airlift and sealift, or joint training operations) to meet such alliance requirements or national security interests, with such alternatives identified and described in detail.

(E) The costs and force structure configurations associated with such alternatives to forward deployment.

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[43] Sec. 1233(b)(1) of Public Law 105–261 (112 Stat. 2156) struck out "March 1, 1998" and inserted in lieu thereof "March 1, 1999".

[44] Sec. 1233(b)(2) of Public Law 105–261 (112 Stat. 2156) struck out "March 1, 1996, and ending on February 28, 1997, and during the period beginning on March 1, 1997, and ending on February 28, 1998;" and inserted in lieu thereof "October 1, 1996, and ending on September 30, 1997, and during the period beginning on October 1, 1997, and ending on September 30, 1998, or, in the case of any nation for which the data for such periods is inadequate, the difference between the amounts for the latest periods for which adequate data is available;".

(F) The financial contributions that allies of the United States make to common defense efforts (to promote democratization, economic stabilization, transparency arrangements, defense economic conversion, respect for the rule of law, and internationally recognized human rights).

(G) The contributions that allies of the United States make to meeting the stationing costs associated with the forward deployment of elements of the United States Armed Forces.

(H) The annual expenditures of the United States and its allies on national defense, and the relative percentages of each nation's gross domestic product constituted by those expenditures.

(2) The President shall submit to Congress a report on the review under paragraph (1). The report shall be submitted not later than March 1, 1999,[45] in classified and unclassified form.

SEC. 1222. TEMPORARY USE OF GENERAL PURPOSE VEHICLES AND NONLETHAL MILITARY EQUIPMENT UNDER ACQUISITION AND CROSS SERVICING AGREEMENTS.

Section 2350(1) of title 10, United States Code,[46] is amended by striking out "other items" in the second sentence and all that follows through "United States Munitions List" and inserting in lieu thereof "other nonlethal items of military equipment which are not designated as significant military equipment on the United States Munitions List promulgated".

SEC. 1223. SENSE OF CONGRESS AND REPORTS REGARDING FINANCIAL COSTS OF ENLARGEMENT OF THE NORTH ATLANTIC TREATY ORGANIZATION.

(a) FINDINGS.—Congress finds the following:

(1) In a report to Congress in February 1997 on the rationale, benefits, costs, and implications of North Atlantic Treaty Organization enlargement the Secretary of Defense estimated that the financial cost to the United States of such enlargement will be modest, totaling between $2,000,000,000 and $2,600,000,000 for the period from 1997 through 2009.

(2) A study by the RAND Corporation published in 1996 calculated that the total financial cost to the United States of such enlargement will be between $5,000,000,000 and $6,000,000,000 over the same period.

(3) A March 1996 report by the Congressional Budget Office on the financial costs of enlarging the North Atlantic Treaty Organization alliance estimated the United States share of alliance enlargement costs to be between $4,800,000,000 and $18,900,000,000 through 2010, depending upon political developments in Europe.

(4) An August 1997 report by the General Accounting Office[47] reviewing the financial cost estimates of the Secretary of Defense concluded that North Atlantic Treaty Organization en-

[45] Sec. 1233(c) of Public Law 105–261 (112 Stat. 2156) struck out "March 1, 1998" and inserted in lieu thereof "March 1, 1999".

[46] See 10 U.S.C. 2350.

[47] Sec. 8 of the GAO Human Capital Reform Act of 2004 (Public Law 108–271; 118 Stat. 814) redesignated the "General Accounting Office" as the "Government Accountability Office" and provided that "Any reference to the General Accounting Office in any law, rule, regulations, certificate, directive, instruction, or other official paper in force on the date of enactment of this Act shall be considered to refer and apply to the Government Accountability Office.".

largement could entail additional costs beyond those included in the Secretary's estimate and questioned the validity of the Secretary's estimate due to the lack of supporting cost documentation and the inclusion of cost elements not related to NATO enlargement.

(5) The North Atlantic Alliance is scheduled to complete its analysis of the military requirements for the integration of Poland, the Czech Republic, and Hungary into the Alliance in December 1997.

(6) The North Atlantic Alliance is also scheduled to complete in December 1997 its financial cost estimate of the military requirements related to the integration of those nations.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the analysis of the North Atlantic Alliance of the military requirements relating to NATO enlargement and of the financial costs to the Alliance of NATO enlargement will be one of the major factors in the consideration by the Senate of the ratification of instruments to approve the admission of new member nations to the Alliance and by Congress for the authorization and appropriation of the funding for the costs associated with such enlargement.

(c) REPORT ASSESSING NATO COST ANALYSIS.—Not later than March 31, 1998, the Secretary of Defense shall submit to Congress a report providing—

(1) an assessment of the analysis by the North Atlantic Alliance of the military requirements related to NATO enlargement and of the estimate of the financial costs to the NATO Alliance for the integration of Poland, the Czech Republic, and Hungary into the Alliance;

(2) a description of the analytical means used to determine such requirements and costs; and

(3) a general assessment of the additional military requirements and costs that would result from a significantly increased threat.

(d) REPORT ON DEPARTMENT OF DEFENSE COSTS.—(1) The Secretary of Defense shall submit to Congress, in conjunction with the submission of the President's budget for fiscal year 1999, a report on Department of Defense costs for NATO enlargement. The report shall include a detailed estimate of such costs for fiscal year 1998 that identifies all appropriations, by budget activity, for the military departments and other elements of the Department of Defense to support NATO enlargement.

(2) The Secretary of Defense shall include in the budget justification materials submitted to Congress by the Secretary in support of the budget of Department of Defense for fiscal year 1999 complete and detailed descriptions and estimates of the amounts provided in that budget for the costs of NATO enlargement.

SEC. 1224. SENSE OF CONGRESS REGARDING ENLARGEMENT OF THE NORTH ATLANTIC TREATY ORGANIZATION.

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

(1) The North Atlantic Treaty Organization (NATO) met on July 8 and 9, 1997, in Madrid, Spain, and issued invitations to the Czech Republic, Hungary, and Poland to begin accession talks to join NATO.

(2) Congress has expressed its support for the process of NATO enlargement by approving the NATO Enlargement Facilitation Act of 1996 (title VI of the matter enacted in section 101(c) of division A of Public Law 104–208; 22 U.S.C. 1928 note).

(3) The United States has supported the position that the process of enlarging NATO will continue after the first round of invitations in July 1997.

(4) Romania and Slovenia are to be commended for their progress toward political and economic reform and appear to be striving to meet the guidelines for prospective membership in NATO.

(5) In furthering the purpose and objective of NATO in promoting stability and well-being in the North Atlantic area, NATO should invite Romania and Slovenia to accession negotiations to become NATO members as expeditiously as possible upon the satisfaction of all relevant membership criteria and consistent with NATO security objectives.

(b) SENSE OF CONGRESS.—It is the sense of Congress that North Atlantic Treaty Organization should be commended—

(1) for having committed to review the process of enlarging the Organization in 1999; and

(2) for singling out the positive developments toward democracy and rule of law in Romania and Slovenia.

SEC. 1225. SENSE OF CONGRESS RELATING TO LEVEL OF UNITED STATES MILITARY PERSONNEL IN THE EAST ASIA AND PACIFIC REGION.

(a) FINDINGS.—Congress finds the following:

(1) The stability of the Asia-Pacific region is a matter of vital national interest affecting the well-being of all Americans.

(2) The nations of the Pacific Rim collectively represent the United States largest trading partner and are expected to account for almost one-third of the world's economic activity by the start of the next century.

(3) The increased reliance by the United States on trade and Middle East oil sources has reinforced United States security interests in the Southeast Asia shipping lanes through the South China Sea and the key straits of Malacca, Sunda, Lombok, and Makassar.

(4) The South China Sea is an important area for United States Navy ships passing from the Pacific to the Indian Ocean and the Persian Gulf.

(5) Maintaining freedom of navigation in the South China Sea is an important interest of the United States.

(6) The threats of proliferation of weapons of mass destruction, the emerging nationalism amidst long-standing ethnic and national rivalries, and the unresolved territorial disputes combine to create a political landscape of potential instability and conflict in this region that could jeopardize the interests of the United States and the safety of United States nationals.

(7) A critical component of the East Asia strategy of the United States is maintaining forward deployed forces in Asia to ensure broad regional stability, to help to deter aggression, to lessen the pressure for arms races, and to contribute to the

political and economic advances of the region from which the United States benefits.

(8) The forward presence of the United States in Northeast Asia enables the United States to respond to regional contingencies, to protect sea lines of communication, to sustain influence, and to support operations as distant as operations in the Persian Gulf.

(9) The military forces of the United States serve to prevent the political or economic control of the Asia-Pacific region by a rival, hostile power or coalition of such powers, thus preventing any such group from obtaining control over the vast resources, enormous wealth, and advanced technology of the region.

(10) Allies of the United States in the region can base their defense planning on a reliable American security commitment, a reduction of which could stimulate an arms buildup in the region.

(11) The Joint Announcement of the United States-Japan Security Consultative Committee of December 1996, acknowledged that "the forward presence of U.S. forces continues to be an essential element for pursuing our common security objectives".

(12) The United States and Japan signed the United States-Japan Security Declaration in April 1996, in which the United States reaffirmed its commitment to maintain this level of 100,000 United States military personnel in the region.

(13) The United States military presence is recognized by the nations of the region as serving stability and enabling United States engagement.

(14) The nations of East Asia and the Pacific consider the commitment of the forces of the United States to be so vital to their future that they scrutinize actions of the United States for any sign of weakened commitment to the security of the region.

(15) The reduction of forward-based military forces could negatively affect the ability of the United States to contribute to the maintenance of peace and stability of the Asia and Pacific region.

(16) Recognizing that while the United States must consider the overall capabilities of its forces in its decisions to deploy troops, nevertheless any reduction in the number of forward-based troops may reduce the perception of American capability and commitment in the region that cannot be completely offset by modernization of the remaining forces.

(17) During time of crisis, deployment of forces to East Asia, even though such forces were previously removed from the area, might be deemed to be an act of provocation that could be used as a pretext by a hostile power for armed aggression within the region, and the existence of that possibility might hinder such a deployment.

(18) Proposals to reduce the forward presence of the United States in the East Asia region or subordinate security interests to United States domestic budgetary concerns can erode the

perception of the commitment of the United States to its alliances and interests in the region.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the United States should maintain at least approximately 100,000 United States military personnel in the East Asia and Pacific region until such time as there is a peaceful and permanent resolution to the major security and political conflicts in the region.

SEC. 1226. REPORT ON FUTURE MILITARY CAPABILITIES AND STRATEGY OF THE PEOPLE'S REPUBLIC OF CHINA.

(a) REPORT.—The Secretary of Defense shall prepare a report, in both classified and unclassified form, on the pattern of military modernization of the People's Republic of China. The report shall address the probable course of military-technological development in the People's Liberation Army and the development of Chinese security strategy and military strategy, and of military organizations and operational concepts, through 2015.

(b) MATTERS TO BE INCLUDED.—The report shall include analyses and forecasts of the following:

(1) The goals of Chinese security strategy and military strategy.

(2) Trends in Chinese strategy regarding the political goals of the People's Republic of China in the Asia-Pacific region and its political and military presence in other regions of the world, including Central Asia, Southwest Asia, Europe, and Latin America.

(3) Developments in Chinese military doctrine, focusing on (but not limited to) efforts to exploit an emerging Revolution in Military Affairs or to conduct preemptive strikes.

(4) Efforts by the People's Republic of China to enhance its capabilities in the area of nuclear weapons development.

(5) Efforts by the People's Republic of China to develop long-range air-to-air or air defense missiles that would provide the capability to target special support aircraft such as Airborne Warning and Control System (AWACS) aircraft, Joint Surveillance and Target Attack Radar System (JSTARS) aircraft, or other command and control, intelligence, airborne early warning, or electronic warfare aircraft.

(6) Efforts by the People's Republic of China to develop a capability to conduct "information warfare" at the strategic, operational, and tactical levels of war.

(7) Development by the People's Republic of China of capabilities in the area of electronic warfare.

(8) Efforts by the People's Republic of China to develop a capability to establish control of space or to deny access and use of military and commercial space systems in times of crisis or war, including programs to place weapons in space or to develop earth-based weapons capable of attacking space-based systems.

(9) Trends that would lead the People's Republic of China toward the development of advanced intelligence, surveillance, and reconnaissance capabilities, including gaining access to commercial or third-party systems with military significance.

(10) Efforts by the People's Republic of China to develop highly accurate and stealthy ballistic and cruise missiles, in-

cluding sea-launched cruise missiles, particularly in numbers sufficient to conduct attacks capable of overwhelming projected defense capabilities in the Asia-Pacific region.

(11) Development by the People's Republic of China of command and control networks, particularly those capable of battle management of long-range precision strikes.

(12) Efforts by the People's Republic of China in the area of telecommunications, including common channel signaling and synchronous digital hierarchy technologies.

(13) Development by People's Republic of China of advanced aerospace technologies with military applications (including gas turbine "hot section" technologies).

(14) Programs of the People's Republic of China involving unmanned aerial vehicles, particularly those with extended ranges or loitering times or potential strike capabilities.

(15) Exploitation by the People's Republic of China for military purposes of the Global Positioning System or other similar systems (including commercial land surveillance satellites), with such analysis and forecasts focusing particularly on indications of an attempt to increase the accuracy of weapons or situational awareness of operating forces.

(16) Development by the People's Republic of China of capabilities for denial of sea control, including such systems as advanced sea mines, improved submarine capabilities, or land-based sea-denial systems.

(17) Efforts by the People's Republic of China to develop its anti-submarine warfare capabilities.

(18) Continued development by the People's Republic of China of follow-on forces, particularly forces capable of rapid air or amphibious assault.

(19) Efforts by the People's Republic of China to enhance its capabilities in such additional areas of strategic concern as the Secretary identifies.

(c) ANALYSIS OF IMPLICATIONS OF SALES OF PRODUCTS AND TECHNOLOGIES TO ENTITIES IN CHINA.—The report under subsection (a) shall include, with respect to each area for analyses and forecasts specified in subsection (b)—

(1) an assessment of the military effects of sales of United States and foreign products and technologies to entities in the People's Republic of China; and

(2) the potential threat of developments related to such effects to United States strategic interests.

(d) SUBMISSION OF REPORT.—The report shall be submitted to Congress not later than March 15, 1998.

SEC. 1227. SENSE OF CONGRESS ON NEED FOR RUSSIAN OPENNESS ON THE YAMANTAU MOUNTAIN PROJECT.

(a) FINDINGS.—Congress finds as follows:

(1) The United States and Russia have been working since the end of the Cold War to achieve a strategic relationship based on cooperation and openness between the two nations.

(2) This effort to establish a new strategic relationship between the two nations has resulted in the conclusion or agreement in principle on a number of far-reaching agreements, including START I, II, and III, a revision in the Conventional

Forces in Europe Treaty, and a series of other agreements (such as the Comprehensive Test Ban Treaty and the Chemical Weapons Convention), designed to further reduce bilateral threats and limit the proliferation of weapons of mass destruction.

(3) These far-reaching agreements were based on the understanding between the United States and Russia that there would be a good faith effort on both sides to comply with the letter and spirit of the agreements.

(4) Reports indicate that Russia has been pursuing construction of a massive underground facility of unknown purpose at Yamantau Mountain and the city of Mezhgorye (formerly the settlements of Beloretsk–15 and Beloretsk–16) that is designed to survive a nuclear war and appears to exceed reasonable defense requirements.

(5) The Yamantau Mountain project does not appear to be consistent with the lowering of strategic threats, openness, and cooperation that is the basis of the post-Cold War strategic partnership between the United States and Russia.

(6) The United States has allowed senior Russian military and government officials to have access to key strategic facilities of the United States by providing tours of the North American Air Defense (NORAD) command at Cheyenne Mountain and the United States Strategic Command (STRATCOM) headquarters in Omaha, Nebraska, among other sites, and by providing extensive briefings on the operations of those facilities.

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

(1) should provide to the United States Government a written explanation with sufficient detail (including drawings and diagrams) of the purpose and operational concept of the completed and planned facilities at Yamantau Mountain to support a high confidence judgment by the United States that the design of the Yamantau facility is consistent with official Russian government explanations; and

(2) should allow a United States delegation, to include officials of the executive branch and Members of Congress, to have access to the Yamantau Mountain project and buildings and facilities surrounding the project.

SEC. 1228. ASSESSMENT OF THE CUBAN THREAT TO UNITED STATES NATIONAL SECURITY.

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

(1) Cuba has maintained a hostile policy in its relations with the United States for over 35 years.

(2) The United States, as a sovereign nation, must be able to respond to any Cuban provocation and defend the people and territory of the United States against any attack.

(3) In 1994, the Government of Cuba callously encouraged a massive exodus of Cubans, by boat and raft, toward the United States during which countless numbers of those Cubans lost their lives on the high seas.

(4) The humanitarian response of the United States to rescue, shelter, and provide emergency care to those Cubans, together with the actions taken to absorb some 30,000 of those

Cubans into the United States, required significant efforts and the expenditure of hundreds of millions of dollars for the costs incurred by the United States and State and local governments in connection with those efforts.

(5) On February 24, 1996, Cuban MiG aircraft attacked and destroyed, in international airspace, two unarmed civilian aircraft flying from the United States, and the four persons in those unarmed civilian aircraft were killed.

(6) Since that attack, the Cuban government has issued no apology for the attack, nor has it indicated any intention to conform its conduct to international law that is applicable to civilian aircraft operating in international airspace.

(b) REVIEW AND ASSESSMENT.—The Secretary of Defense shall carry out a comprehensive review and assessment of—

(1) Cuban military capabilities; and

(2) the threats to the national security of the United States that may be posed by Cuba, including—

(A) such unconventional threats as (i) encouragement of massive and dangerous migration, and (ii) attacks on citizens and residents of the United States while they are engaged in peaceful protest in international waters or airspace;

(B) the potential for development and delivery of chemical or biological weapons; and

(C) the potential for internal strife in Cuba that could involve citizens or residents of the United States or the Armed Forces of the United States.

(c) REPORT.—Not later than March 31, 1998, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the review and assessment. The report shall include the following:

(1) The Secretary's assessment of the capabilities and threats referred to in subsection (b), including each of the threats described in paragraph (2) of that subsection.

(2) A discussion of the results of the review and assessment, including an assessment of the contingency plans developed by the Secretary to counter any threat posed by Cuba to the United States.

(d) CONSULTATION ON REVIEW AND ASSESSMENT.—In performing the review and assessment and in preparing the report, the Secretary of Defense shall consult with the Chairman of the Joint Chiefs of Staff, the commander of the United States Southern Command, and the heads of other appropriate departments and agencies of the United States.

SEC. 1229. REPORT ON HELSINKI JOINT STATEMENT.

(a) REQUIREMENT.—Not later than March 31, 1998, the President shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the Helsinki Joint Statement on future reductions in nuclear forces. The report shall address the United States approach (including verification implications) to implementing the

Helsinki Joint Statement, in particular, as that Statement relates to the following:

(1) Lower aggregate levels of strategic nuclear warheads.

(2) Measures relating to the transparency of strategic nuclear warhead inventories and the destruction of strategic nuclear warheads.

(3) Deactivation of strategic nuclear delivery vehicles.

(4) Measures relating to nuclear long-range sea-launched cruise missiles and tactical nuclear systems.

(5) Issues related to transparency in nuclear materials.

(b) DEFINITION.—For purposes of this section, the term "Helsinki Joint Statement" means the agreements between the President of the United States and the President of the Russian Federation as contained in the Joint Statement on Parameters on Future Reductions in Nuclear Forces issued at Helsinki in March 1997.

SEC. 1230. COMMENDATION OF MEXICO ON FREE AND FAIR ELECTIONS.

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

(1) On July 6, 1997, elections were conducted in Mexico in order to fill 500 seats in the Chamber of Deputies, 32 seats in the 128 seat Senate, the office of the Mayor of Mexico City, and local elections in a number of Mexican States.

(2) For the first time, the federal elections were organized by the Federal Electoral Institute, an autonomous and independent organization established under the Mexican Constitution.

(3) More than 52,000,000 Mexican citizens registered to vote.

(4) Eight political parties registered to participate in those elections, including the Institutional Revolutionary Party (PRI), the National Action Party (PAN), and the Democratic Revolutionary Party (PRD).

(5) Since 1993, Mexican citizens have had the exclusive right to participate as observers in activities related to the preparation and the conduct of elections.

(6) Since 1994, Mexican law has permitted international observers to be a part of the election process.

(7) With 84 percent of the ballots counted, PRI candidates received 38 percent of the vote for seats in the Chamber of Deputies, while PRD and PAN candidates received 52 percent of the combined vote.

(8) PRD candidate Cuauhtemoc Cardenas Solorzano has become the first elected Mayor of Mexico City, a post previously appointed by the President.

(9) PAN members will now serve as governors in seven of Mexico's 31 States.

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

(1) the recent elections in Mexico were conducted in a free, fair, and impartial manner;

(2) the will of the Mexican people, as expressed through the ballot box, has been respected by President Ernesto Zedillo and officials throughout his administration; and

(3) President Zedillo, the Mexican Government, the Federal Electoral Institute of Mexico, the political parties and candidates, and most importantly the citizens of Mexico should all

be congratulated for their support and participation in these very historic elections.

SEC. 1231. SENSE OF CONGRESS REGARDING CAMBODIA.

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

(1) During the 1970s and 1980s, Cambodia was wracked by political conflict, war, and violence, including genocide perpetrated by the Khmer Rouge from 1975 to 1979.

(2) The 1991 Paris Agreements on a Comprehensive Political Settlement of the Cambodia Conflict set the stage for a process of political accommodation and national reconciliation among Cambodia's warring parties.

(3) The international community engaged in a massive effort involving more than $2,000,000,000 to ensure peace, democracy, and prosperity in Cambodia following the Paris Accords.

(4) The Cambodian people clearly demonstrated their support for democracy when 90 percent of eligible Cambodian voters participated in United Nations-sponsored elections in 1993.

(5) Since the 1993 elections, Cambodia has made economic progress, as shown by the recent decision of the Association of Southeast Asian Nations (ASEAN) to extend membership in the Association to Cambodia.

(6) Tensions within the ruling Cambodian coalition have erupted into violence.

(7) In March 1997, 19 Cambodians were killed and more than 100 were wounded in a grenade attack on political demonstrators supportive of the Funcinpec and the Khmer Nation Party.

(8) During June 1997, fighting erupted in Phnom Penh between forces loyal to First Prime Minister Prince Ranariddh and Second Prime Minister Hun Sen.

(9) On July 5, 1997, Second Prime Minister Hun Sen deposed the First Prime Minister in a violent coup d'état.

(10) Forces loyal to Hun Sen have executed former Interior Minister Ho Sok and approximately 40 other political opponents loyal to Prince Ranariddh.

(11) Democracy and stability in Cambodia are threatened by the continued use of violence and other extralegal means to resolve political tensions.

(12) In response to the July 1997 coup in Cambodia referred to in paragraph (9)—

(A) the President has suspended all direct assistance to the Cambodian Government; and

(B) the Association of Southeast Asian Nations (ASEAN) has decided to delay indefinitely admission of Cambodia to membership in the Association.

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

(1) the parties in Cambodia should immediately cease the use of violence;

(2) the United States should take all necessary steps to ensure the safety of United States citizens in Cambodia;

(3) the United States should call an emergency meeting of the United Nations Security Council to consider all options to restore peace and democratic governance in Cambodia;

(4) the United States and the Association of Southeast Asian Nations should work together to take immediate steps to restore democracy and the rule of law in Cambodia;

(5) United States assistance to the Government of Cambodia should remain suspended until violence ends, the democratically elected Government is restored to power, and the necessary steps have been taken to ensure that the elections scheduled for 1998 take place; and

(6) the United States should take all necessary steps to encourage other donor nations to suspend assistance as part of a multilateral effort.

SEC. 1232. CONGRATULATING GOVERNOR CHRISTOPHER PATTEN OF HONG KONG.

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

(1) His Excellency Christopher F. Patten, the former Governor of Hong Kong, was the twenty-eighth and last British Governor of the dependent territory of Hong Kong before that territory reverted back to the People's Republic of China on July 1, 1997.

(2) Christopher Patten was a superb administrator and an inspiration to the people whom he governed.

(3) During Christopher Patten's five years as Governor of Hong Kong, the economy flourished under his stewardship, growing by more than 30 percent in real terms.

(4) Christopher Patten presided over a capable and honest civil service.

(5) During the tenure of Christopher Patten as Governor of Hong Kong, common crime declined and the political climate was positive and stable.

(6) The legacy of Christopher Patten to Hong Kong is the expansion of democracy in Hong Kong's legislative council and a tireless devotion to the rights, freedoms, and welfare of the people of Hong Kong.

(7) Christopher Patten fulfilled the commitment of the British Government to "put in place a solidly based democratic administration" in Hong Kong before July 1, 1997.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that Christopher F. Patten, the last British Governor of the dependent territory of Hong Kong—

(1) served his country with great honor and distinction in that capacity; and

(2) deserves special thanks and recognition from the United States for his tireless efforts to develop and nurture democracy in Hong Kong.

TITLE XIII—ARMS CONTROL AND RELATED MATTERS[48]

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[48] For text, see *Legislation on Foreign Relations Through 2004*, vol. II, sec. F.

TITLE XIV—COOPERATIVE THREAT REDUCTION WITH STATES OF FORMER SOVIET UNION[49]

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DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

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Subtitle C—Program Authorizations, Restrictions, and Limitations

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SEC. 3133.[50] * * * [Redesignated—2003]

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Subtitle D—Other Matters

* * * * * * *

SEC. 3156.[51] **STOCKPILE STEWARDSHIP PROGRAM.** * * * [Repealed—1998]

SEC. 3157.[52] **REPORTS ON ADVANCED SUPERCOMPUTER SALES TO CERTAIN FOREIGN NATIONS.**

(a) REPORTS.—The Secretary of Energy shall require that any company that is a participant in the Accelerated Strategic Computing Initiative (ASCI) program of the Department of Energy report to the Secretary and to the Secretary of Defense each sale by that company to a country designated as a Tier III country of a computer capable of operating at a speed in excess of 2,000 millions theoretical operations per second (MTOPS). The report shall include a description of the following with respect to each such sale:

(1) The anticipated end-use of the computer sold.

(2) The software included with the computer.

(3) Any arrangement under the terms of the sale regarding—

(A) upgrading the computer;

(B) servicing the computer; or

(C) furnishing spare parts for the computer.

(b) COVERED COUNTRIES.—For purposes of this section, the countries designated as Tier III countries are the countries listed as "computer tier 3" eligible countries in part 740.7 of title 15 of the Code of Federal Regulations, as in effect on June 10, 1997 (or any successor list).

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[49] For text, see *Legislation on Foreign Relations Through 2004*, vol. II, sec. F.

[50] Formerly at 42 U.S.C. 7273c, relating to international cooperative stockpile stewardship. Redesignated as 50 U.S.C. 2561, as sec. 4301 of Public Law 107–314, by sec. 3141(f)(2) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1762).

[51] Formerly at 42 U.S.C. 2121 note. Repealed by sec. 3157 of Public Law 105–261 (112 Stat. 2257). Section formerly stated congressional findings and policy relating to the stockpile stewardship program.

[52] 50 U.S.C. app. 2404 note.

(c) QUARTERLY SUBMISSION OF REPORTS.—The Secretary of Energy shall require that reports under subsection (a) be submitted quarterly.

(d) ANNUAL REPORT.—The Secretary of Energy shall submit to Congress an annual report containing all information received under subsection (a) during the preceding year. The first annual report shall be submitted not later than July 1, 1998.

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SEC. 3163. MODIFICATION OF AUTHORITY ON COMMISSION ON MAINTAINING UNITED STATES NUCLEAR WEAPONS EXPERTISE.

(a) COMMENCEMENT OF ACTIVITIES.—Subsection (b)(1) of section 3162 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2844; 42 U.S.C. 2121 note) is amended, effective January 1, 1998—* * *[53]

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TITLE XXXV—PANAMA CANAL COMMISSION[54]

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[53] For amended text, see page 980.

[54] Amendments to the Panama Canal Act have been incorporated into that Act; see *Legislation on Foreign Relations Through 2004*, vol. II, sec. G.

m. National Defense Authorization Act for Fiscal Year 1997

Partial text of Public Law 104–201 [H.R. 3230], 110 Stat. 2422, approved September 23, 1996; amended by Public Law 105–85 [National Defense Authorization Act for Fiscal Year 1998; H.R. 1119], 111 Stat. 1629, approved November 18, 1997; Public Law 106–65 [National Defense Authorization Act for Fiscal Year 2000; S. 1059], 113 Stat. 512, approved October 5, 1999; and by Public Law 108–136 [National Defense Authorization Act for Fiscal Year 2004; H.R. 1588], 117 Stat. 1392, approved November 24, 2003

AN ACT To authorize appropriations for fiscal year 1997 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Defense Authorization Act for Fiscal Year 1997".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into three divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

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

SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.

For purposes of this Act, the term "congressional defense committees" means—

(1) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

(2) the Committee on Armed Services[1] and the Committee on Appropriations of the House of Representatives.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

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SUBTITLE A—AUTHORIZATION OF APPROPRIATIONS

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[1] Sec. 1067(4) of Public Law 106–65 (113 Stat. 774) struck out "Committee on National Security" and inserted in lieu thereof "Committee on Armed Services".

SEC. 107. CHEMICAL DEMILITARIZATION PROGRAM.

There is hereby authorized to be appropriated for fiscal year 1997 the amount of $759,847,000 for—

(1) the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521); and

(2) the destruction of chemical warfare materiel of the United States that is not covered by section 1412 of such Act.

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TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

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SUBTITLE B—PROGRAM REQUIREMENTS, RESTRICTIONS, AND LIMITATIONS

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SEC. 229. CERTIFICATION OF CAPABILITY OF UNITED STATES TO PREVENT ILLEGAL IMPORTATION OF NUCLEAR, BIOLOGICAL, AND CHEMICAL WEAPONS.

Not later than 15 days after the date of the enactment of this Act, the President shall submit to Congress a certification in writing stating specifically whether or not the United States has the capability (as of the date of the certification) to prevent the illegal importation of nuclear, biological, and chemical weapons into the United States and its possessions.

* * * * * * *

SEC. 231. COUNTERPROLIFERATION SUPPORT PROGRAM.

(a) FUNDING.—Of the funds authorized to be appropriated to the Department of Defense under section 201(4), $186,200,000 shall be available for the Counterproliferation Support Program, of which $75,000,000 shall be available for a tactical antisatellite technologies program.

(b) ADDITIONAL AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) In addition to the transfer authority provided in section 1001, upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 1997 to counterproliferation programs, projects, and activities identified as areas for progress by the Counterproliferation Program Review Committee established by section 1605 of the National Defense Authorization Act for Fiscal Year 1994 (22 U.S.C. 2751 note). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations transferred under the authority of this subsection may not exceed $50,000,000.

(3) The authority provided by this subsection to transfer authorizations—

(A) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(B) may not be used to provide authority for an item that has been denied authorization by Congress.

(4) A transfer made from one account to another under the authority of this subsection shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(5) The Secretary of Defense shall promptly notify Congress of transfers made under the authority of this subsection.

(c) LIMITATION ON USE OF FUNDS FOR TECHNICAL STUDIES AND ANALYSES PENDING RELEASE OF FUNDS.—(1) None of the funds authorized to be appropriated to the Department of Defense for fiscal year 1997 for program element 605104D, relating to technical studies and analyses, may be obligated or expended until the funds referred to in paragraph (2) have been released to the program manager of the tactical anti-satellite technology program for implementation of that program.

(2) The funds for release referred to in paragraph (1) are as follows:

(A) Funds authorized to be appropriated by section 218(a) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 222) that are available for the program referred to in paragraph (1).

(B) Funds authorized to be appropriated to the Department for fiscal year 1997 by this Act for the Counterproliferation Support Program that are to be made available for that program.

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SUBTITLE D—OTHER MATTERS

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SEC. 268. DESALTING TECHNOLOGIES.

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

(1) Access to scarce fresh water is likely to be a cause of future military conflicts in the Middle East and has a direct impact on stability and security in the region.

(2) The Middle East is an area of vital and strategic importance to the United States.

(3) The United States has played a military role in the Middle East, most recently in the Persian Gulf War, and may likely be called upon again to deter aggression in the region.

(4) United States troops have used desalting technologies to guarantee the availability of fresh water in past deployments in the Middle East.

(5) Adequate, efficient, and cheap access to high-quality fresh water will be vital to maintaining the readiness and sustainability of troops of both the United States and its allies.

(b) SENSE OF CONGRESS.—It is the sense of Congress that, as improved access to fresh water will be an important factor in helping prevent future conflicts in the Middle East, the United States should, in cooperation with its allies, promote and invest in technologies to reduce the costs of converting saline water into fresh water.

(c) FUNDING FOR RESEARCH AND DEVELOPMENT.—Of the amounts authorized to be appropriated by this title, the Secretary shall place greater emphasis on making funds available for research and development into efficient and economical processes and methods for converting saline water into fresh water.

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TITLE III—OPERATION AND MAINTENANCE

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SUBTITLE A—AUTHORIZATION OF APPROPRIATIONS

SEC. 301. OPERATION AND MAINTENANCE FUNDING.

Funds are hereby authorized to be appropriated for fiscal year 1997 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

* * *

(18) For Overseas Humanitarian, Disaster, and Civic Aid programs, $54,544,000.

(19) For Drug Interdiction and Counter-drug Activities, Defense-wide, $796,524,000.

* * *

(22) For Cooperative Threat Reduction programs, $364,900,000.

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SEC. 306. AVAILABILITY OF ADDITIONAL FUNDS FOR ANTITERRORISM ACTIVITIES.

Of the amount authorized to be appropriated pursuant to section 301 for operation and maintenance, $14,000,000 shall be available to the Secretary of Defense for activities designed to meet the antiterrorism responsibilities of the Department of Defense, including activities related to intelligence support, physical security measures, and education and training regarding antiterrorism. The amount made available by this section is in addition to amounts otherwise made available by this Act for antiterrorism activities.

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TITLE X—GENERAL PROVISIONS

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SUBTITLE C—COUNTER-DRUG ACTIVITIES

SEC. 1031.[2] AUTHORITY TO PROVIDE ADDITIONAL SUPPORT FOR COUNTER-DRUG ACTIVITIES OF MEXICO.

(a) AUTHORITY TO PROVIDE ADDITIONAL SUPPORT.—Subject to subsection (e), during fiscal years 1997 and 1998,[3] the Secretary of Defense may provide the Government of Mexico with the support

[2] See also sec. 1033 of Public Law 105–85 (111 Stat. 1881).

[3] Sec. 1032(a)(1) of Public Law 105–85 (111 Stat. 1881) struck out "fiscal year 1997" and inserted in lieu thereof "fiscal years 1997 and 1998".

described in subsection (b) for the counter-drug activities of the Government of Mexico. In providing support to the Government of Mexico under this section, the Secretary of Defense shall consult with the Secretary of State.[4] The support provided under the authority of this subsection shall be in addition to support provided to the Government of Mexico under any other provision of law.

(b) TYPES OF SUPPORT.—The authority under subsection (a) is limited to the provision of the following types of support:

(1) The transfer of nonlethal protective and utility personnel equipment.

(2) The transfer of the following nonlethal specialized equipment:

(A) Navigation equipment.

(B) Secure and nonsecure communications equipment.

(C) Photo equipment.

(D) Radar equipment.

(E) Night vision systems.

(F) Repair equipment and parts for equipment referred to in subparagraphs (A), (B), (C), (D), and (E).

(3) The transfer of nonlethal components, accessories, attachments, parts (including ground support equipment), firmware, and software for aircraft or patrol boats, and related repair equipment.

(4) The maintenance and repair of equipment of the Government of Mexico that is used for counter-drug activities.

(c) APPLICABILITY OF OTHER SUPPORT AUTHORITIES.—Except as otherwise provided in this section, the provisions of section 1004 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 374 note) shall apply to the provision of support under this section.

(d) FUNDING.—Of the amount authorized to be appropriated under section 301(19) for drug interdiction and counter-drug activities, an amount not to exceed[5] $8,000,000 shall be available for the provision of support under this section. Funds made available for fiscal year 1997 under this subsection and unobligated by September 30, 1997, may be obligated during fiscal year 1998. No funds are authorized to be appropriated for fiscal year 1998 for the provision of support under this section.[6]

(e) LIMITATIONS.—(1) The Secretary may not obligate or expend funds to provide support under this section until 15 days after the date on which the Secretary submits to the committees referred to in paragraph (3) the certification described in paragraph (2).

(2) The certification referred to in paragraph (1) is a written certification of the following:

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[4] Sec. 1032(a)(2) of Public Law 105–85 (111 Stat. 1881) added "In providing support to the Government of Mexico under this section, the Secretary of Defense shall consult with the Secretary of State.".

[5] Sec. 1032(b)(1) of Public Law 105–85 (111 Stat. 1881) struck out "not more than" and inserted in lieu thereof "an amount not to exceed".

[6] Sec. 1032(b)(2) of Public Law 105–85 (111 Stat. 1881) added "Funds made available for fiscal year 1997 under this subsection and unobligated by September 30, 1997, may be obligated during fiscal year 1998. No funds are authorized to be appropriated for fiscal year 1998 for the provision of support under this section.".

(A) That the provision of support under this section will not adversely affect the military preparedness of the United States Armed Forces.

(B) That the equipment and materiel provided as support will be used only by officials and employees of the Government of Mexico who have undergone a background check by that government.

(C) That the Government of Mexico has certified to the Secretary that—

(i) the equipment and material provided as support will be used only by the officials and employees referred to in subparagraph (B);

(ii) none of the equipment or materiel will be transferred (by sale, gift, or otherwise) to any person or entity not authorized by the United States to receive the equipment or materiel; and

(iii) the equipment and materiel will be used only for the purposes intended by the United States Government.

(D) That the Government of Mexico has implemented, to the satisfaction of the Secretary, a system that will provide an accounting and inventory of the equipment and materiel provided as support.

(E) That the departments, agencies, and instrumentalities of the Government of Mexico will grant United States Government personnel access to any of the equipment or materiel provided as support, or to any of the records relating to such equipment or materiel, under terms and conditions similar to the terms and conditions imposed with respect to such access under section 505(a)(3) of the Foreign Assistance Act of 1961 (22 U.S.C. 2314(a)(3)).

(F) That the Government of Mexico will provide security with respect to the equipment and materiel provided as support that is substantially the same degree of security that the United States Government would provide with respect to such equipment and materiel.

(G) That the Government of Mexico will permit continuous observation and review by United States Government personnel of the use of the equipment and materiel provided as support under terms and conditions similar to the terms and conditions imposed with respect to such observation and review under section 505(a)(3) of the Foreign Assistance Act of 1961 (22 U.S.C. 2314(a)(3)).

(3) The committees referred to in this paragraph are the following:

(A) The Committee on Armed Services and the Committee on Foreign Relations of the Senate.

(B) The Committee on National Security and the Committee on International Relations of the House of Representatives.

SEC. 1032. AVAILABILITY OF FUNDS FOR CERTAIN DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES.

(a) P–3B AIRCRAFT.—Of the funds authorized to be appropriated under section 301(19) for drug interdiction and counter-drug activities, not more than $98,000,000 may be used for the purpose of procuring or modifying two P–3B aircraft for use by departments and

agencies of the United States outside the Department of Defense for drug interdiction and counter-drug activities. However, funds may not be obligated for such purpose until the Secretary of Defense submits to the congressional defense committees a certification that the procurement or modification of such aircraft and the use of such aircraft by other departments or agencies of the United States will significantly reduce the level of support that would otherwise be required of E–3 AWACS aircraft as part of the drug interdiction and counter-drug mission of the Department of Defense.

(b) NONINTRUSIVE INSPECTION DEVICES.—Of the funds authorized to be appropriated under section 301(19) for drug interdiction and counter-drug activities, not more than $10,000,000 may be used to procure three nonintrusive inspection devices for use by departments and agencies of the United States outside the Department of Defense for drug interdiction and counter-drug activities.

(c) AUTHORITY TO TRANSFER EQUIPMENT.—The Secretary of Defense may transfer to the head of any department or agency of the United States outside the Department of Defense any equipment procured or modified under this section with funds referred to in this section.

SEC. 1033.[7] TRANSFER OF EXCESS PERSONAL PROPERTY TO SUPPORT LAW ENFORCEMENT ACTIVITIES.

(a) TRANSFER AUTHORITY.—(1) Chapter 153 of title 10, United States Code, is amended by inserting after section 2576 the following new section: * * *

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SUBTITLE D—REPORTS AND STUDIES

SEC. 1041.[8] ANNUAL REPORT ON OPERATION PROVIDE COMFORT AND OPERATION ENHANCED SOUTHERN WATCH.

(a) ANNUAL REPORT.—Not later than March 1 of each year, the Secretary of Defense shall submit to Congress a report on Operation Provide Comfort and Operation Enhanced Southern Watch.

(b) MATTERS RELATING TO OPERATION PROVIDE COMFORT.—Each report under subsection (a) shall include, with respect to Operation Provide Comfort, the following:

(1) A detailed presentation of the projected costs to be incurred by the Department of Defense for that operation during the fiscal year in which the report is submitted and projected for the following fiscal year, together with a discussion of missions and functions expected to be performed by the Department as part of that operation during each of those fiscal years.

(2) A detailed presentation of the projected costs to be incurred by other departments and agencies of the Federal Government participating in or providing support to that operation during each of those fiscal years.

[7] Sec. 1033 added a new sec. 2576a to 10 U.S.C., relating to the sale or donation of excess DOD personal property to state and other Federal law enforcement agencies for counter-drug and counter-terrorism activities.

[8] 10 U.S.C. 113 note.

(3) A discussion of options being pursued to reduce the involvement of the Department of Defense in those aspects of that operation that are not directly related to the military mission of the Department of Defense.

(4) A discussion of the exit strategy for United States involvement in, and support for, that operation.

(5) A description of alternative approaches to accomplishing the mission of that operation that are designed to limit the scope and cost to the Department of Defense of accomplishing that mission while maintaining mission success.

(6) The contributions (both in-kind and actual) by other nations to the costs of conducting that operation.

(7) A detailed presentation of significant Iraqi military activity (including specific violations of the no-fly zone) determined to jeopardize the security of the Kurdish population in northern Iraq.

(c) MATTERS RELATING TO OPERATION ENHANCED SOUTHERN WATCH.—Each report under subsection (a) shall include, with respect to Operation Enhanced Southern Watch, the following:

(1) The expected duration and annual costs of the various elements of that operation.

(2) The political and military objectives associated with that operation.

(3) The contributions (both in-kind and actual) by other nations to the costs of conducting that operation.

(4) A description of alternative approaches to accomplishing the mission of that operation that are designed to limit the scope and cost of accomplishing that mission while maintaining mission success.

(5) A comprehensive discussion of the political and military objectives and initiatives that the Department of Defense has pursued, and intends to pursue, in order to reduce United States involvement in that operation.

(6) A detailed presentation of significant Iraqi military activity (including specific violations of the no-fly zone) determined to jeopardize the security of the Shiite population by air attack in southern Iraq or to jeopardize the security of Kuwait.

(d) TERMINATION OF REPORT REQUIREMENT.—The requirement under subsection (a) shall cease to apply with respect to an operation named in that subsection upon the termination of United States involvement in that operation.

(e) DEFINITIONS.—For purposes of this section:

(1) OPERATION ENHANCED SOUTHERN WATCH.—The term "Operation Enhanced Southern Watch" means the operation of the Department of Defense that as of October 30, 1995, is designated as Operation Enhanced Southern Watch.

(2) OPERATION PROVIDE COMFORT.—The term "Operation Provide Comfort" means the operation of the Department of Defense that as of October 30, 1995, is designated as Operation Provide Comfort.

SEC. 1042.[9] * * * [Repealed—1999]

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SEC. 1045. QUARTERLY REPORTS REGARDING COPRODUCTION AGREEMENTS.

(a) QUARTERLY REPORTS ON COPRODUCTION AGREEMENTS.—Section 36(a) of the Arms Export Control Act (22 U.S.C. 2776(a)) is amended— * * *[10]

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SEC. 1048. REPORT ON NATO ENLARGEMENT.

(a) REPORT.—Not later than February 1, 1997, the President shall transmit to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on National Security and the Committee on International Relations of the House of Representatives a report on the enlargement of the North Atlantic Treaty Organization. The report shall contain a comprehensive discussion of the following:

(1) Geopolitical and financial costs and benefits, including financial savings, associated with—

(A) enlargement of the North Atlantic Treaty Organization;

(B) further delays in the process of enlargement of the North Atlantic Treaty Organization; and

(C) a failure to enlarge the North Atlantic Treaty Organization.

(2) Additional North Atlantic Treaty Organization and United States military expenditures requested by prospective members of the North Atlantic Treaty Organization to facilitate their admission into the North Atlantic Treaty Organization.

(3) Modifications necessary in the military strategy of the North Atlantic Treaty Organization and force structure required by the inclusion of new members and steps necessary to integrate new members, including the role of nuclear and conventional capabilities, reinforcement, force deployments, prepositioning of equipment, mobility, and headquarter locations.

(4) The relationship between enlargement of the North Atlantic Treaty Organization and transatlantic stability and security.

(5) The state of military preparedness and interoperability of Central and Eastern European nations as it relates to the responsibilities of membership of the North Atlantic Treaty Organization and additional security costs or benefits that may accrue to the United States from enlargement of the North Atlantic Treaty Organization.

(6) The state of democracy and free market development as it affects the preparedness of Central and Eastern European

[9] Formerly at 10 U.S.C. 113 note. Sec. 241 of Public Law 106–65 (113 Stat. 549) amended 10 U.S.C. by adding a new sec. 486, which requires a quadrennial report on emerging operational concepts, and repealed sec. 1042 of this Act, which had required a similar report on an annual basis.

[10] For amended text, see *Legislation on Foreign Relations Through 2004*, vol. I–A.

nations for the responsibilities of membership of the North Atlantic Treaty Organization, including civilian control of the military, the rule of law, human rights, and parliamentary oversight.

(7) The state of relations between prospective members of the North Atlantic Treaty Organization and their neighbors, steps taken by prospective members to reduce tensions, and mechanisms for the peaceful resolution of border disputes.

(8) The commitment of prospective members of the North Atlantic Treaty Organization to the principles of the North Atlantic Treaty and the security of the North Atlantic area.

(9) The effect of enlargement of the North Atlantic Treaty Organization on the political, economic, and security conditions of European Partnership for Peace nations not among the first new members of the North Atlantic Treaty Organization.

(10) The relationship between enlargement of the North Atlantic Treaty Organization and EU enlargement and the costs and benefits of both.

(11) The relationship between enlargement of the North Atlantic Treaty Organization and treaties relevant to United States and European security, such as the Conventional Armed Forces in Europe Treaty.

(12) The anticipated impact both of enlargement of the North Atlantic Treaty Organization and further delays of enlargement on Russian foreign and defense policies and the costs and benefits of a security relationship between the North Atlantic Treaty Organization and Russia.

(b) INTERPRETATION.—Nothing in this section shall be interpreted or construed to affect the implementation of the NATO Participation Act of 1994 (title II of Public Law 103–447; 22 U.S.C. 1928 note), or any other program or activity which facilitates or assists prospective members of the North Atlantic Treaty Organization.

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SUBTITLE F—OTHER MATTERS

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SEC. 1063. AUTHORITY TO ACCEPT SERVICES FROM FOREIGN GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS FOR DEFENSE PURPOSES.

Section 2608(a) of title 10, United States Code, is amended by inserting before the period at the end the following: "and may accept from any foreign government or international organization any contribution of services made by such foreign government or international organization for use by the Department of Defense".[11]

SEC. 1064.[12] PROHIBITION ON COLLECTION AND RELEASE OF DETAILED SATELLITE IMAGERY RELATING TO ISRAEL.

(a) COLLECTION AND DISSEMINATION.—A department or agency of the United States may issue a license for the collection or dissemination by a non-Federal entity of satellite imagery with respect to

[11] For amended text, see page 683.
[12] 15 U.S.C. 5621 note.

Israel only if such imagery is no more detailed or precise than satellite imagery of Israel that is available from commercial sources.

(b) DECLASSIFICATION AND RELEASE.—A department or agency of the United States may declassify or otherwise release satellite imagery with respect to Israel only if such imagery is no more detailed or precise than satellite imagery of Israel that is available from commercial sources.

SEC. 1065.[13] GEORGE C. MARSHALL EUROPEAN CENTER FOR STRATEGIC SECURITY STUDIES.

(a) AUTHORITY TO ACCEPT FOREIGN GIFTS AND DONATIONS.—(1) The Secretary of Defense may, on behalf of the George C. Marshall European Center for Strategic Security Studies (in this section referred to as the "Marshall Center"), accept foreign gifts or donations in order to defray the costs of, or enhance the operation of, the Marshall Center.

(2) Funds received by the Secretary under paragraph (1) shall be credited to appropriations available for the Department of Defense for the Marshall Center. Funds so credited shall be merged with the appropriations to which credited and shall be available for the Marshall Center for the same purposes and same period as the appropriations with which merged.

(3) The Secretary of Defense shall notify Congress if the total amount of money accepted under paragraph (1) exceeds $2,000,000 in any fiscal year. Any such notice shall list each of the contributors of such amounts and the amount of each contribution in such fiscal year.

(4) For purposes of this subsection, a foreign gift or donation is a gift or donation of funds, materials (including research materials), property, or services (including lecture services and faculty services) from a foreign government, a foundation or other charitable organization in a foreign country, or an individual in a foreign country.

(b)[14] MARSHALL CENTER PARTICIPATION BY FOREIGN NATIONS.—Notwithstanding any other provision of law, the Secretary of Defense may authorize participation by a European or Eurasian nation in Marshall Center programs if the Secretary determines, after consultation with the Secretary of State, that such participation is in the national interest of the United States.

(c) EXEMPTIONS FOR MEMBERS OF MARSHALL CENTER BOARD OF VISITORS FROM CERTAIN REQUIREMENTS.—(1) In the case of any person invited to serve without compensation on the Marshall Center Board of Visitors, the Secretary of Defense may waive any requirement for financial disclosure that would otherwise apply to that person solely by reason of service on such Board.

(2) Notwithstanding any other provision of law, a member of the Marshall Center Board of Visitors may not be required to register as an agent of a foreign government solely by reason of service as a member of the Board.

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[13] 10 U.S.C. 113 note.

[14] Sec. 1031(f)(2) of Public Law 108–136 (117 Stat. 1604) struck out para. designation "(1)" before "Notwithstanding", and struck out para. (2), which required an annual report of the Secretary of Defense listing the names foreign nations permitted to participate in programs of the Marshall Center during the preceding year.

(3) Notwithstanding section 219 of title 18, United States Code, a non-United States citizen may serve on the Marshall Center Board of Visitors even though registered as a foreign agent.

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SEC. 1081. SENSE OF CONGRESS REGARDING SEMICONDUCTOR TRADE AGREEMENT BETWEEN UNITED STATES AND JAPAN.

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

(1) The United States and Japan share a long and important bilateral relationship which serves as an anchor of peace and stability in the Asia Pacific region, an alliance which was reaffirmed at the recent summit meeting between President Clinton and Prime Minister Hashimoto in Tokyo.

(2) The Japanese economy has experienced difficulty over the past few years, demonstrating that it is no longer possible for Japan, the world's second largest economy, to use exports as the sole engine of economic growth, but that the Government of Japan must promote deregulation of its domestic economy in order to increase economic growth.

(3) Deregulation of the Japanese economy requires government attention to the removal of barriers to imports of manufactured goods.

(4) The United States-Japan Semiconductor Trade Agreement has begun the process of deregulation in the semiconductor sector and is opening the Japanese market to competitive foreign products.

(5) The United States-Japan Semiconductor Trade Agreement has put in place both government-to-government and industry-to-industry mechanisms which have played a vital role in allowing cooperation to replace conflict in this important high technology sector.

(6) The mechanisms include joint calculation of foreign market share, deterrence of dumping, and promotion of industrial cooperation in the design of foreign semiconductor devices.

(7) Because of these actions under the United States-Japan Semiconductor Trade Agreement, the United States and Japan today enjoy trade in semiconductors which is mutually beneficial, harmonious, and free from the friction that once characterized the semiconductor industry.

(8) Because of structural barriers in Japan, a gap still remains between the share of the world market for semiconductor products outside Japan that the United States and other foreign semiconductor sources are able to capture through competitiveness and the share of the Japanese semiconductor market that the United States and those other sources are able to capture through competitiveness, and that gap is consistent across the full range of semiconductor products as well as a full range of end-use applications.

(9) The competitiveness and health of the United States semiconductor industry is of critical importance to the overall economic well-being and high-technology defense capabilities of the United States.

(10) The economic interests of both the United States and Japan are best served by well functioning, open markets, deterrence of dumping, and continuing good cooperative relationships in all sectors, including semiconductors.

(11) A strong and healthy military and political alliance between the United States and Japan requires continuation of the industrial and economic cooperation promoted by the United States-Japan Semiconductor Trade Agreement.

(12) President Clinton has called on the Government of Japan to agree to a continuation of the United States-Japan Semiconductor Trade Agreement beyond the current agreement's expiration on July 31, 1996.

(13) The Government of Japan has opposed any continuation of the United States-Japan Semiconductor Trade Agreement to promote cooperation in United States-Japan semiconductor trade.

(b) SENSE OF CONGRESS.—On the basis of the findings contained in subsection (a), it is the sense of Congress that—

(1) it is regrettable that the Government of Japan has refused to consider continuation of the United States-Japan Semiconductor Trade Agreement to ensure that cooperation continues in the semiconductor sector beyond the expiration of the agreement on July 31, 1996; and

(2) the President should take all necessary and appropriate actions to ensure the resumption and extension of the United States-Japan Semiconductor Trade Agreement beyond July 31, 1996.

(c) DEFINITION.—For purposes of this section, the term "United States-Japan Semiconductor Trade Agreement" refers to the agreement between the United States and Japan concerning trade in semiconductor products, with arrangement, done by exchange of letters at Washington on June 11, 1991.

SEC. 1082.[15] AGREEMENTS FOR EXCHANGE OF DEFENSE PERSONNEL BETWEEN THE UNITED STATES AND FOREIGN COUNTRIES.

(a) AUTHORITY TO ENTER INTO INTERNATIONAL EXCHANGE AGREEMENTS.—(1) The Secretary of Defense may enter into international defense personnel exchange agreements.

(2) For purposes of this section, an international defense personnel exchange agreement is an agreement with the government of an ally of the United States or another friendly foreign country for the exchange of—

(A) military and civilian personnel of the Department of Defense; and

(B) military and civilian personnel of the defense ministry of that foreign government.

(b) ASSIGNMENT OF PERSONNEL.—(1) Pursuant to an international defense personnel exchange agreement, personnel of the

[15] 10 U.S.C. 168 note.

defense ministry of a foreign government may be assigned to positions in the Department of Defense and personnel of the Department of Defense may be assigned to positions in the defense ministry of such foreign government. Positions to which exchanged personnel are assigned may include positions of instructors.

(2) An agreement for the exchange of personnel engaged in research and development activities may provide for assignment of Department of Defense personnel to positions in private industry that support the defense ministry of the host foreign government.

(3) An individual may not be assigned to a position pursuant to an international defense personnel exchange agreement unless the assignment is acceptable to both governments.

(c) RECIPROCITY OF PERSONNEL QUALIFICATIONS REQUIRED.—Each government shall be required under an international defense personnel exchange agreement to provide personnel with qualifications, training, and skills that are essentially equal to those of the personnel provided by the other government.

(d) PAYMENT OF PERSONNEL COSTS.—(1) Each government shall pay the salary, per diem, cost of living, travel costs, cost of language or other training, and other costs for its own personnel in accordance with the applicable laws and regulations of such government.

(2) Paragraph (1) does not apply to the following costs:

(A) The cost of temporary duty directed by the host government.

(B) The cost of training programs conducted to familiarize, orient, or certify exchanged personnel regarding unique aspects of the assignments of the exchanged personnel.

(C) Costs incident to the use of the facilities of the host government in the performance of assigned duties.

(e) PROHIBITED CONDITIONS.—No personnel exchanged pursuant to an agreement under this section may take or be required to take an oath of allegiance to the host country or to hold an official capacity in the government of such country.

(f) RELATIONSHIP TO OTHER AUTHORITY.—The requirements in subsections (c) and (d) shall apply in the exercise of any authority of the Secretaries of the military departments to enter into an agreement with the government of a foreign country to provide for the exchange of members of the armed forces and military personnel of the foreign country. The Secretary of Defense may prescribe regulations for the application of such subsections in the exercise of such authority.

SEC. 1083. SENSE OF SENATE REGARDING BOSNIA AND HERZEGOVINA.

It is the sense of the Senate that, notwithstanding any other provision of law, in order to maximize the amount of equipment provided to the Government of Bosnia and Herzegovina under the authority contained in section 540 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104–107; 110 Stat. 737), the price of the transferred equipment shall not exceed the lowest level at which the same or similar equipment has been transferred to any other country under any other United States Government program.

SEC. 1084.[16] DEFENSE BURDENSHARING.

(a) EFFORTS TO INCREASE ALLIED BURDENSHARING.—The President shall seek to have each nation that has cooperative military relations with the United States (including security agreements, basing arrangements, or mutual participation in multinational military organizations or operations) take one or more of the following actions:

(1) Increase its financial contributions to the payment of the nonpersonnel costs incurred by the United States Government for stationing United States military personnel in that nation, with a goal of achieving by September 30, 2000, 75 percent of such costs. An increase in financial contributions by any nation under this paragraph may include the elimination of taxes, fees, or other charges levied on United States military personnel, equipment, or facilities stationed in that nation.

(2) Increase its annual budgetary outlays for national defense as a percentage of its gross domestic product by 10 percent or at least to a level commensurate to that of the United States by September 30, 1997.

(3) Increase its annual budgetary outlays for foreign assistance (to promote democratization, economic stabilization, transparency arrangements, defense economic conversion, respect for the rule of law, and internationally recognized human rights) by 10 percent or at least to a level commensurate to that of the United States by September 30, 1997.

(4) Increase the amount of military assets (including personnel, equipment, logistics, support and other resources) that it contributes, or would be prepared to contribute, to multinational military activities worldwide.

(b) AUTHORITIES TO ENCOURAGE ACTIONS BY UNITED STATES ALLIES.—In seeking the actions described in subsection (a) with respect to any nation, or in response to a failure by any nation to undertake one or more of such actions, the President may take any of the following measures to the extent otherwise authorized by law:

(1) Reduce the end strength level of members of the Armed Forces assigned to permanent duty ashore in that nation.

(2) Impose on that nation fees or other charges similar to those that such nation imposes on United States forces stationed in that nation.

(3) Reduce (through rescission, impoundment, or other appropriate procedures as authorized by law) the amount the United States contributes to the NATO Civil Budget, Military Budget, or Security Investment Program.

(4) Suspend, modify, or terminate any bilateral security agreement the United States has with that nation, consistent with the terms of such agreement.

(5) Reduce (through rescission, impoundment, or other appropriate procedures as authorized by law) any United States bilateral assistance appropriated for that nation.

(6) Take any other action the President determines to be appropriate as authorized by law.

[16] 22 U.S.C. 1928 note.

(c) REPORT ON PROGRESS IN INCREASING ALLIED BURDENSHARING.—Not later than March 1, 1997, the Secretary of Defense shall submit to Congress a report on—

(1) steps taken by other nations to complete the actions described in subsection (a);

(2) all measures taken by the President, including those authorized in subsection (b), to achieve the actions described in subsection (a); and

(3) the budgetary savings to the United States that are expected to accrue as a result of the steps described under paragraph (1).

(d) REPORT ON NATIONAL SECURITY BASES FOR FORWARD DEPLOYMENT AND BURDENSHARING RELATIONSHIPS.—(1) In order to ensure the best allocation of budgetary resources, the President shall undertake a review of the status of elements of the United States Armed Forces that are permanently stationed outside the United States. The review shall include an assessment of the following:

(A) The alliance requirements that are to be found in agreements between the United States and other countries.

(B) The national security interests that support permanently stationing elements of the United States Armed Forces outside the United States.

(C) The stationing costs associated with the forward deployment of elements of the United States Armed Forces.

(D) The alternatives available to forward deployment (such as material prepositioning, enhanced airlift and sealift, or joint training operations) to meet such alliance requirements or national security interests, with such alternatives identified and described in detail.

(E) The costs and force structure configurations associated with such alternatives to forward deployment.

(F) The financial contributions that allies of the United States make to common defense efforts (to promote democratization, economic stabilization, transparency arrangements, defense economic conversion, respect for the rule of law, and internationally recognized human rights).

(G) The contributions that allies of the United States make to meeting the stationing costs associated with the forward deployment of elements of the United States Armed Forces.

(H) The annual expenditures of the United States and its allies on national defense, and the relative percentages of each nation's gross domestic product constituted by those expenditures.

(2) The President shall submit to Congress a report on the review under paragraph (1). The report shall be submitted not later than March 1, 1997, in classified and unclassified form.

(e) REPORT DATE.—Section 1003(c) of Public Law 98–525[17] is amended by striking out "each year" and inserting "by March 1, 1998, and every other year thereafter".

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[17] Sec. 1044(e) of Public Law 108–136 (117 Stat. 1613) struck out "98–515" and inserted in lieu thereof "98–525", and provided that the amendment "shall take effect as if included in Public Law 104–201.".

TITLE XIII—ARMS CONTROL AND RELATED MATTERS [18]

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TITLE XIV—DEFENSE AGAINST WEAPONS OF MASS DESTRUCTION [19]

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TITLE XV—COOPERATIVE THREAT REDUCTION WITH STATES OF FORMER SOVIET UNION [20]

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DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

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SUBTITLE C—PROGRAM AUTHORIZATIONS, RESTRICTIONS, AND LIMITATIONS

SEC. 3137. PROHIBITION ON FUNDING NUCLEAR WEAPONS ACTIVITIES WITH PEOPLE'S REPUBLIC OF CHINA.

(a) FUNDING PROHIBITION.—No funds authorized to be appropriated or otherwise available to the Department of Energy for fiscal year 1997 may be obligated or expended for any activity associated with the conduct of cooperative programs relating to nuclear weapons or nuclear weapons technology, including stockpile stewardship, safety, and use control, with the People's Republic of China.

(b) REPORT.—(1) The Secretary of Energy shall prepare, in consultation with the Secretary of Defense, a report containing a description of all discussions and activities between the United States and the People's Republic of China regarding nuclear weapons matters that have occurred before the date of the enactment of this Act and that are planned to occur after such date. For each such discussion or activity, the report shall include—

(A) the authority under which the discussion or activity took or will take place;

(B) the subject of the discussion or activity;

(C) participants or likely participants;

(D) the source and amount of funds used or to be used to pay for the discussion or activity; and

(E) a description of the actions taken or to be taken to ensure that no classified information or unclassified controlled information was or will be revealed, and a determination of whether classified information or unclassified controlled information was revealed in previous discussions.

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[18] For text, see *Legislation on Foreign Relations Through 2004*, vol. II, sec. F.
[19] For text, see *Legislation on Foreign Relations Through 2004*, vol. II, sec. F.
[20] For text, see *Legislation on Foreign Relations Through 2004*, vol. II, sec. F.

(2) The report shall be submitted to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives not later than January 15, 1997.

SEC. 3138. INTERNATIONAL COOPERATIVE STOCKPILE STEWARDSHIP PROGRAMS.

(a) FUNDING PROHIBITION.—No funds authorized to be appropriated or otherwise available to the Department of Energy for fiscal year 1997 may be obligated or expended to conduct any activities associated with international cooperative stockpile stewardship.

(b) EXCEPTION.—Subsection (a) does not apply—

(1) with respect to such activities conducted between the United States and the United Kingdom and between the United States and France; and

(2) to activities carried out under title XV of this Act (relating to cooperative threat reduction with states of the former Soviet Union).

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SUBTITLE D—OTHER MATTERS

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SEC. 3158. UPDATE OF REPORT ON NUCLEAR TEST READINESS POSTURES.

Not later than June 1, 1997, the Secretary of Energy shall submit to Congress a report which updates the report submitted by the Secretary under section 3152 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 623). The updated report shall include the matters specified under such section, current as of the date of the updated report.

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SEC. 3162.[21] COMMISSION ON MAINTAINING UNITED STATES NUCLEAR WEAPONS EXPERTISE.

(a) ESTABLISHMENT.—There is hereby established a commission to be known as the "Commission on Maintaining United States Nuclear Weapons Expertise" (in this section referred to as the "Commission").

(b) ORGANIZATIONAL MATTERS.—(1)(A) The Commission shall be composed of eight members appointed from among individuals in the public and private sectors who have significant experience in matters relating to nuclear weapons, as follows:

(i) Two shall be appointed by the majority leader of the Senate (in consultation with the minority leader of the Senate).

(ii) One shall be appointed by the minority leader of the Senate (in consultation with the majority leader of the Senate).

(iii) Two shall be appointed by the Speaker of the House of Representatives (in consultation with the minority leader of the House of Representatives).

(iv) One shall be appointed by the minority leader of the House of Representatives (in consultation with the Speaker of the House of Representatives).

[21] 42 U.S.C. 2121 note.

(v) Two shall be appointed by the Secretary of Energy.

(B) Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(C) The chairman of the Commission shall be designated from among the members of the Commission appointed under subparagraph (A) by the majority leader of the Senate, in consultation with the Speaker of the House of Representatives, the minority leader of the Senate, and the minority leader of the House of Representatives. The chairman may be designated once five members of the Commission have been appointed under subparagraph (A).[22]

(D) Members shall be appointed not later than 60 days after the date of the enactment of this Act.

(E)[23] The Commission may commence its activities under this section upon the designation of the chairman of the Commission under subparagraph (C).

(2) The members of the Commission shall establish procedures for the activities of the Commission, including procedures for calling meetings, requirements for quorums, and the manner of taking votes.

(c) DUTIES.—(1) The Commission shall develop a plan for recruiting and retaining within the Department of Energy nuclear weapons complex such scientific, engineering, and technical personnel as the Commission determines appropriate in order to permit the Department to maintain over the long term a safe and reliable nuclear weapons stockpile without engaging in underground testing.

(2) In developing the plan, the Commission shall—

(A) identify actions that the Secretary may undertake to attract qualified scientific, engineering, and technical personnel to the nuclear weapons complex of the Department; and

(B) review and recommend improvements to the on-going efforts of the Department to attract such personnel to the nuclear weapons complex.

(d) REPORT.—Not later than March 15, 1999,[24] the Commission shall submit to the Secretary and to Congress a report containing the plan developed under subsection (c). The report may include recommendations for legislation and administrative action.

(e) COMMISSION PERSONNEL MATTERS.—(1) Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code,[25] for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in

[22] Sec. 3163(a)(1) of Public Law 105–85 (111 Stat. 2049) added "The chairman may be designated once five members of the Commission have been appointed under subparagraph (A).".

[23] Sec. 3163(a)(2) of Public Law 105–85 (111 Stat. 2050) added subpara. (E).

[24] Sec. 3163(b) of Public Law 105–85 (111 Stat. 2050) struck out "March 15, 1998," and inserted in lieu thereof "March 15, 1999,".

[25] The current rate of compensation at level IV of the Executive Schedule is $140,300 per annum (Executive Order 13368; 70 F.R. 1147; December 30, 2004).

addition to that received for their services as officers or employees of the United States.

(2) The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(3) The Commission may, without regard to the civil service laws and regulations, appoint and terminate such personnel as may be necessary to enable the Commission to perform its duties. The Commission may fix the compensation of the personnel of the Commission without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

(4) Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(f) TERMINATION.—The Commission shall terminate 30 days after the date on which the Commission submits its report under subsection (d).

(g) APPLICABILITY OF FACA.—The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the activities of the Commission.

(h) FUNDING.—Of the amounts authorized to be appropriated pursuant to section 3101, not more than $1,000,000 shall be available for the activities of the Commission under this section. Funds made available to the Commission under this section shall remain available until expended.

SEC. 3163. SENSE OF CONGRESS REGARDING RELIABILITY AND SAFETY OF REMAINING NUCLEAR FORCES.

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

(1) The United States is committed to proceeding with a robust, science-based stockpile stewardship program with respect to production of nuclear weapons, and to maintaining nuclear weapons production capabilities and capacities, that are adequate—

(A) to ensure the safety, reliability, and performance of the United States nuclear arsenal; and

(B) to meet such changing national security requirements as may result from international developments or technical problems with nuclear warheads.

(2) The United States is committed to reestablishing and maintaining production facilities for nuclear weapons components at levels that are sufficient—

(A) to satisfy requirements for the safety, reliability, and performance of United States nuclear weapons; and

(B) to demonstrate and sustain production capabilities and capacities.

(3) The United States is committed to maintaining the nuclear weapons laboratories and protecting core nuclear weapons competencies.

(4) The United States is committed to ensuring rapid access to a new production source of tritium within the next decade,

as it currently has no meaningful capability to produce tritium, a component that is essential to the performance of modern nuclear weapons.

(5) The United States reserves the right, consistent with United States law, to resume underground nuclear testing to maintain confidence in the United States stockpile of nuclear weapons if warhead design flaws or aging of nuclear weapons result in problems that a robust stockpile stewardship program cannot solve.

(6) The United States is committed to funding the Nevada Test Site at a level that maintains the ability of the United States to resume underground nuclear testing within one year after a national decision to do so is made.

(7) The United States reserves the right to invoke the supreme national interest of the United States and withdraw from any future arms control agreement to limit underground nuclear testing.

(b) SENSE OF CONGRESS REGARDING PRESIDENTIAL CONSULTATION WITH CONGRESS.—It is the sense of Congress that the President should consult closely with Congress regarding United States policy and practices to ensure confidence in the safety, reliability, and performance of the nuclear stockpile of the United States.

(c) SENSE OF CONGRESS REGARDING NOTIFICATION AND CONSULTATION.—It is the sense of Congress that, upon a determination by the President that a problem with the safety, reliability, or performance of the nuclear stockpile has occurred and that the problem cannot be corrected within the stockpile stewardship program, the President shall—

(1) immediately notify Congress of the problem; and

(2) submit to Congress in a timely manner a plan for corrective action with respect to the problem, including—

(A) a technical description of the activities required under the plan; and

(B) if underground testing of nuclear weapons would assist in such corrective action, an assessment of the advisability of withdrawing from any treaty that prohibits underground testing of nuclear weapons.

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TITLE XXXV—PANAMA CANAL COMMISSION[26]

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[26] Amendments to the Panama Canal Act have been incorporated into that Act; see *Legislation on Foreign Relations Through 2004*, vol. II, sec. G.

n. National Defense Authorization Act for Fiscal Year 1996

Partial text of Public Law 104–106 [S. 1124], 110 Stat. 186, approved February 10, 1996; amended by Public Law 104–201 [National Defense Authorization Act for Fiscal Year 1997; H.R. 3230], 110 Stat. 2422, approved September 23, 1996; Public Law 105–85 [National Defense Authorization Act for Fiscal Year 1998; H.R. 1119]. 111 Stat. 1629, approved November 18, 1997; Public Law 105–261 [Strom Thurmond National Defense Authorization Act for Fiscal Year 1999; H.R. 3616], 112 Stat. 1920, approved October 17, 1998; Public Law 106–65 [National Defense Authorization Act for Fiscal Year 2000; S. 1059], 113 Stat. 512, approved October 5, 1999; Public Law 106–398 [Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001; H.R. 4205], 114 Stat. 1654, approved October 30, 2000; Public Law 107–314 [Bob Stump National Defense Authorization Act for Fiscal Year 2003; H.R. 4546], 116 Stat. 2458, approved December 2, 2002; Public Law 108–136 [National Defense Authorization Act for Fiscal Year 2004; H.R. 1588], 117 Stat. 1392, approved November 24, 2003

AN ACT To authorize appropriations for fiscal year 1996 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, to reform acquisition laws and information technology management of the Federal Government, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Defense Authorization Act for Fiscal Year 1996".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into five divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

(4) Division D—Federal Acquisition Reform.

(5) Division E—Information Technology Management Reform.

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

SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.

For purposes of this Act, the term "congressional defense committees" means—

(1) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

(2) the Committee on Armed Services[1] and the Committee on Appropriations of the House of Representatives.

[1] Sec. 1067(6) of Public Law 106–65 (113 Stat. 774) struck out "Committee on National Security" and inserted in lieu thereof "Committee on Armed Services".

SEC. 4. EXTENSION OF TIME FOR SUBMISSION OF REPORTS.

In the case of any provision of this Act, or any amendment made by a provision of this Act, requiring the submission of a report to Congress (or any committee of Congress), that report shall be submitted not later than the later of—

(1) the date established for submittal of the report in such provision or amendment; or

(2) the date that is 45 days after the date of the enactment of this Act.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

* * * * * * *

SUBTITLE B—ARMY PROGRAMS

SEC. 112. REPEAL OF REQUIREMENTS FOR ARMORED VEHICLE UPGRADES.

Subsection (j) of section 21 of the Arms Export Control Act (22 U.S.C. 2761) is repealed.[2]

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TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

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SUBTITLE B—PROGRAM REQUIREMENTS, RESTRICTIONS, AND LIMITATIONS

SEC. 218. COUNTERPROLIFERATION SUPPORT PROGRAM.

(a) FUNDING.—Of the funds authorized to be appropriated to the Department of Defense under section 201(4),[3] $138,237,000 shall be available for the Counterproliferation Support Program, of which $30,000,000 shall be available for a tactical antisatellite technologies program.

(b) ADDITIONAL AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) In addition to the transfer authority provided in section 1001, upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 1996 to counterproliferation programs, projects, and activities identified as areas for progress by the Counterproliferation Program Review Committee established by section 1605 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1845). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations transferred under the authority of this subsection may not exceed $50,000,000.

(3) The authority provided by this subsection to transfer authorizations—

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[2] See *Legislation on Foreign Relations Through 2004*, vol. I–A.

[3] Sec. 201(4) authorized, for Defense-wide activities, $9,693,180,000.

(A) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(B) may not be used to provide authority for an item that has been denied authorization by Congress.

(4) A transfer made from one account to another under the authority of this subsection shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(5) The Secretary of Defense shall promptly notify Congress of transfers made under the authority of this subsection.

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TITLE III—OPERATION AND MAINTENANCE

SUBTITLE A—AUTHORIZATION OF APPROPRIATIONS

SEC. 301. OPERATION AND MAINTENANCE FUNDING.

Funds are hereby authorized to be appropriated for fiscal year 1996 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

* * *

(15) For Drug Interdiction and Counter-drug Activities, Defense-wide, $680,432,000.

* * *

(18) For Cooperative Threat Reduction programs, $300,000,000.

(19) For Overseas Humanitarian, Disaster, and Civic Aid programs, $50,000,000.

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SUBTITLE G—OTHER MATTERS

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SEC. 379. REPORT ON DEPARTMENT OF DEFENSE MILITARY AND CIVIL DEFENSE PREPAREDNESS TO RESPOND TO EMERGENCIES RESULTING FROM A CHEMICAL, BIOLOGICAL, RADIOLOGICAL, OR NUCLEAR ATTACK.

(a) REPORT.—(1) Not later than March 1, 1996, the Secretary of Defense and the Secretary of Energy shall submit to Congress a joint report on the military and civil defense plans and programs of the Department of Defense to prepare for and respond to the effects of an emergency in the United States resulting from a chemical, biological, radiological, or nuclear attack on the United States (hereinafter in this section referred to as an "attack-related civil defense emergency").

(2) The report shall be prepared in consultation with the Director of the Federal Emergency Management Agency.

(b) CONTENT OF REPORT.—The report shall include the following:

(1) A discussion of the military and civil defense plans and programs of the Department of Defense for preparing for and responding to an attack-related civil defense emergency arising

from an attack of a type for which the Department of Defense has a primary responsibility to respond.

(2) A discussion of the military and civil defense plans and programs of the Department of Defense for preparing for and providing a response to an attack-related civil defense emergency arising from an attack of a type for which the Department of Defense has responsibility to provide a supporting response.

(3) A description of any actions, and any recommended legislation, that the Secretaries consider necessary for improving the preparedness of the Department of Defense to respond effectively to an attack-related civil defense emergency.

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TITLE X—GENERAL PROVISIONS

SUBTITLE A—FINANCIAL MATTERS

* * * * * * *

SEC. 1004. OPERATION PROVIDE COMFORT.

(a) AUTHORIZATION OF AMOUNTS AVAILABLE.—Within the total amounts authorized to be appropriated in titles III and IV, there is hereby authorized to be appropriated for fiscal year 1996 for costs associated with Operation Provide Comfort—

(1) $136,300,000 for operation and maintenance costs; and

(2) $7,000,000 for incremental military personnel costs.

(b) REPORT.—Not more than $70,000,000 of the amount appropriated under subsection (a) may be obligated until the Secretary of Defense submits to the congressional defense committees a report on Operation Provide Comfort which includes the following:

(1) A detailed presentation of the projected costs to be incurred by the Department of Defense for Operation Provide Comfort during fiscal year 1996, together with a discussion of missions and functions expected to be performed by the Department as part of that operation during that fiscal year.

(2) A detailed presentation of the projected costs to be incurred by other departments and agencies of the Federal Government participating in or providing support to Operation Provide Comfort during fiscal year 1996.

(3) A discussion of available options to reduce the involvement of the Department of Defense in those aspects of Operation Provide Comfort that are not directly related to the military mission of the Department of Defense.

(4) A plan establishing an exit strategy for United States involvement in, and support for, Operation Provide Comfort.

(c) OPERATION PROVIDE COMFORT.—For purposes of this section, the term "Operation Provide Comfort" means the operation of the Department of Defense that as of October 30, 1995, is designated as Operation Provide Comfort.

SEC. 1005. OPERATION ENHANCED SOUTHERN WATCH.

(a) AUTHORIZATION OF AMOUNTS AVAILABLE.—Within the total amounts authorized to be appropriated in titles III and IV, there

is hereby authorized to be appropriated for fiscal year 1996 for costs associated with Operation Enhanced Southern Watch—

(1) $433,400,000 for operation and maintenance costs; and

(2) $70,400,000 for incremental military personnel costs.

(b) REPORT.—(1) Of the amounts specified in subsection (a), not more than $250,000,000 may be obligated until the Secretary of Defense submits to the congressional defense committees a report designating Operation Enhanced Southern Watch, or significant elements thereof, as a forward presence operation for which funding should be budgeted as part of the annual defense budget process in the same manner as other activities of the Armed Forces involving forward presence or forward deployed forces.

(2) The report shall set forth the following:

(A) The expected duration and annual costs of the various elements of Operation Enhanced Southern Watch.

(B) Those elements of Operation Enhanced Southern Watch that are semi-permanent in nature and should be budgeted in the future as part of the annual defense budget process in the same manner as other activities of the Armed Forces involving forward presence or forward deployed forces.

(C) The political and military objectives associated with Operation Enhanced Southern Watch.

(D) The contributions (both in-kind and actual) by other nations to the costs of conducting Operation Enhanced Southern Watch.

(c) OPERATION ENHANCED SOUTHERN WATCH.—For purposes of this section, the term "Operation Enhanced Southern Watch" means the operation of the Department of Defense that as of October 30, 1995, is designated as Operation Enhanced Southern Watch.

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SEC. 1008. AUTHORIZATION REDUCTIONS TO REFLECT SAVINGS FROM REVISED ECONOMIC ASSUMPTIONS.

(a) REDUCTION.—The total amount authorized to be appropriated in titles I, II, and III of this Act is hereby reduced by $832,000,000 to reflect savings from revised economic assumptions. Such reduction shall be made from accounts in those titles as follows: * * *

Drug Interdiction and Counter-Drug Activities, Defense, $5,000,000.

* * *

Overseas Humanitarian, Disaster, and Civic Aid, $1,000,000.

Former Soviet Union Threat Reduction, $2,000,000.

(b) REDUCTIONS TO BE APPLIED PROPORTIONALLY.—Reductions under this section shall be applied proportionally to each budget activity, activity group, and subactivity group and to each program, project, and activity within each account.

SUBTITLE B—NAVAL VESSELS AND SHIPYARDS

* * * * * * *

SEC. 1012. TRANSFER OF NAVAL VESSELS TO CERTAIN FOREIGN COUNTRIES.

(a) TRANSFERS BY GRANT.—The Secretary of the Navy is authorized to transfer on a grant basis under section 516 of the Foreign

Assistance Act of 1961 (22 U.S.C. 2321j) frigates of the Oliver Hazard Perry class to other countries as follows:

(1) To the Government of Bahrain, the guided missile frigate Jack Williams (FFG 24).

(2) To the Government of Egypt, the frigate Copeland (FFG 25).

(3) To the Government of Turkey, the frigates Clifton Sprague (FFG 16) and Antrim (FFG 20).

(b) TRANSFERS BY LEASE OR SALE.—The Secretary of the Navy is authorized to transfer on a lease basis under section 61 of the Arms Export Control Act (22 U.S.C. 2796) or on a sale basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761) frigates of the Oliver Hazard Perry class to other countries as follows:

(1) To the Government of Egypt, the frigate Duncan (FFG 10).

(2) To the Government of Oman, the guided missile frigate Mahlon S. Tisdale (FFG 27).

(3) To the Government of Turkey, the frigate Flatley (FFG 21).

(4) To the Government of the United Arab Emirates, the guided missile frigate Gallery (FFG 26).

(c) FINANCING FOR TRANSFERS BY LEASE.—Section 23 of the Arms Export Control Act (22 U.S.C. 2763) may be used to provide financing for any transfer by lease under subsection (b) in the same manner as if such transfer were a procurement by the recipient nation of a defense article.

(d) COSTS OF TRANSFERS.—Any expense incurred by the United States in connection with a transfer authorized by subsection (a) or (b) shall be charged to the recipient.

(e) EXPIRATION OF AUTHORITY.—The authority to transfer a vessel under subsection (a) and under subsection (b) shall expire at the end of the two-year period beginning on the date of the enactment of this Act, except that a lease entered into during that period under any provision of subsection (b) may be renewed.

(f) REPAIR AND REFURBISHMENT IN UNITED STATES SHIPYARDS.—The Secretary of the Navy shall require, as a condition of the transfer of a vessel under this section, that the country to which the vessel is transferred have such repair or refurbishment of the vessel as is needed, before the vessel joins the naval forces of that country, performed at a shipyard located in the United States, including a United States Navy shipyard.

(g) PROHIBITION ON CERTAIN TRANSFERS OF VESSELS ON GRANT BASIS.—(1) Section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j)[4] is amended by adding at the end the following new subsection: * * *

(2) The amendment made by paragraph (1) shall apply with respect to the transfer of a vessel on or after the date of the enactment of this Act (other than a vessel the transfer of which is authorized by subsection (a) or by law before the date of the enactment of this Act).

* * * * * * *

[4] See *Legislation on Foreign Relations Through 2004*, vol. I–A.

TITLE XII—COOPERATIVE THREAT REDUCTION WITH STATES OF FORMER SOVIET UNION[5]

* * * * * * *

TITLE XIII—MATTERS RELATING TO OTHER NATIONS

SUBTITLE A—PEACEKEEPING PROVISIONS

SEC. 1301. LIMITATION ON USE OF DEPARTMENT OF DEFENSE FUNDS FOR UNITED STATES SHARE OF COSTS OF UNITED NATIONS PEACEKEEPING ACTIVITIES.

(a) IN GENERAL.—Chapter 20 of title 10, United States Code, is amended by inserting after section 404 the following new section:[6]

SUBTITLE B—HUMANITARIAN ASSISTANCE PROGRAMS

SEC. 1311. OVERSEAS HUMANITARIAN, DISASTER, AND CIVIC AID PROGRAMS.

(a) COVERED PROGRAMS.—For purposes of section 301 and other provisions of this Act, programs of the Department of Defense designated as Overseas Humanitarian, Disaster, and Civic Aid (OHDACA) programs are the programs provided by sections 401, 402, 404, 2547, and 2551 of title 10, United States Code.

(b) GAO REPORT.—Not later than March 1, 1996, the Comptroller General of the United States shall provide to the congressional defense committees a report on—

(1) existing funding mechanisms available to cover the costs associated with the Overseas Humanitarian, Disaster, and Civic Assistance activities through funds provided to the Department of State or the Agency for International Development, and

(2) if such mechanisms do not exist, actions necessary to institute such mechanisms, including any changes in existing law or regulations.

SEC. 1312.[7] HUMANITARIAN ASSISTANCE. * * *

SEC. 1313.[8] LANDMINE CLEARANCE PROGRAM. * * *

(c) REPEAL.—Section 1413 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2913; 10 U.S.C. 401 note) is repealed.

SUBTITLE C—ARMS EXPORTS AND MILITARY ASSISTANCE

SEC. 1321. DEFENSE EXPORT LOAN GUARANTEES.

(a) ESTABLISHMENT OF PROGRAM.—(1) Chapter 148 of title 10, United States Code, is amended by adding at the end the following new subchapter:[9]

* * * * * * *

[5] For text, see *Legislation on Foreign Relations Through 2004*, vol. II, sec. F.
[6] This section added a new sec. 405 to 10 U.S.C.
[7] Sec. 1312 amended 10 U.S.C. 2551, now at 10 U.S.C. 2651.
[8] Sec. 1313 amended 10 U.S.C. 401.
[9] Sec. 1321(a)(1) amended 10 U.S.C. 2540–2540d.

(b)[10] REPORT.—Not later than two years after the date of the enactment of this Act, the President shall submit to Congress a report on the loan guarantee program established pursuant to section 2540 of title 10, United States Code, as added by subsection (a). The report shall include—

(1) an analysis of the costs and benefits of the loan guarantee program; and

(2) any recommendations for modification of the program that the President considers appropriate, including—

(A) any recommended addition to the list of countries for which a guarantee may be issued under the program; and

(B) any proposed legislation necessary to authorize a recommended modification.

(c) FIRST YEAR COSTS.—The Secretary of Defense shall make available, from amounts appropriated to the Department of Defense for fiscal year 1996 for operations and maintenance, such amounts as may be necessary, not to exceed $500,000, for the expenses of the Department of Defense during fiscal year 1996 that are directly attributable to the administration of the defense export loan guarantee program under subchapter VI of chapter 148 of title 10, United States Code, as added by subsection (a).

(d) REPLENISHMENT OF OPERATIONS AND MAINTENANCE ACCOUNTS FOR FIRST YEAR COSTS.—The Secretary of Defense shall, using funds in the special account referred to in section 2540c(d) of title 10, United States Code (as added by subsection (b)), replenish operations and maintenance accounts for amounts expended from such accounts for expenses referred to in subsection (c).

SEC. 1322.[11] NATIONAL SECURITY IMPLICATIONS OF UNITED STATES EXPORT CONTROL POLICY.

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

(1) Export controls remain an important element of the national security policy of the United States.

(2) It is in the national security interest that United States export control policy be effective in preventing the transfer, to potential adversaries or combatants of the United States, of technology that threatens the national security or defense of the United States.

(3) It is in the national security interest that the United States monitor aggressively the export of militarily critical technology in order to prevent its diversion to potential adversaries or combatants of the United States.

(4) The Department of Defense relies increasingly on commercial and dual-use technologies, products, and processes to support United States military capabilities and economic strength.

(5) The maintenance of the military advantage of the United States depends on effective export controls on dual-use items and technologies that are critical to the military capabilities of the Armed Forces.

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

[10] 10 U.S.C. 2540 note.
[11] 50 U.S.C. app. 2404 note.

(1) the Secretary of Defense should evaluate license applications for the export of militarily critical commodities the export of which is controlled for national security reasons if those commodities are to be exported to certain countries of concern;

(2) the Secretary of Defense should identify the dual-use items and technologies that are critical to the military capabilities of the Armed Forces, including the military use made of such items and technologies;

(3) upon identification by the Secretary of Defense of the dual-use items and technologies referred to in paragraph (2), the President should ensure effective export controls or use unilateral export controls on dual-use items and technologies that are critical to the military capabilities of the Armed Forces (regardless of the availability of such items or technologies overseas) with respect to the countries that—

(A) pose a threat to the national security interests of the United States; and

(B) are not members in good standing of bilateral or multilateral agreements to which the United States is a party on the use of such items and technologies; and

(4) the President, upon recommendation of the Secretary of Defense, should ensure effective controls on the re-export by other countries of dual-use items and technologies that are critical to the military capabilities of the Armed Forces.

(c) ANNUAL REPORT.—(1) Not later than December 1 of each year through 1999, the President shall submit to the committees specified in paragraph (4) a report on the effect of the export control policy of the United States on the national security interests of the United States.

(2) The report shall include the following:

(A) A list setting forth each country determined by the Secretary of Defense, the intelligence community, and other appropriate agencies to be a rogue nation or potential adversary or combatant of the United States.

(B) For each country so listed, a list of—

(i) the categories of items that the United States currently prohibits for export to the country;

(ii) the categories of items that may be exported from the United States with an individual license, and in such cases, any licensing conditions normally required and the policy grounds used for approvals and denials; and

(iii) the categories of items that may be exported under a general license designated "G–DEST".

(C) For each category of items listed under subparagraph (B)—

(i) a statement whether a prohibition, control, or licensing requirement on a category of items is imposed pursuant to an international multilateral agreement or is unilateral;

(ii) a statement whether a prohibition, control, or licensing requirement on a category of items is imposed by the other members of an international agreement or is unilateral;

(iii) when the answer under either clause (i) or clause (ii) is unilateral, a statement concerning the efforts being made to ensure that the prohibition, control, or licensing requirement is made multilateral; and

(iv) a statement on what impact, if any, a unilateral prohibition is having, or would have, on preventing the rogue nation or potential adversary from attaining the items in question for military purposes.

(D) A description of United States policy on sharing satellite imagery that has military significance and a discussion of the criteria for determining the imagery that has that significance.

(E) A description of the relationship between United States policy on the export of space launch vehicle technology and the Missile Technology Control Regime.

(F) An assessment of United States efforts to support the inclusion of additional countries in the Missile Technology Control Regime.

(G) An assessment of the ongoing efforts made by potential participant countries in the Missile Technology Control Regime to meet the guidelines established by the Missile Technology Control Regime.

(H) A discussion of the history of the space launch vehicle programs of other countries, including a discussion of the military origins and purposes of such programs and the current level of military involvement in such programs.

(3) The President shall submit the report in unclassified form, but may include a classified annex.

(4) The committees referred to in paragraph (1) are the following:

(A) The Committee on Armed Services and the Committee on Foreign Relations of the Senate.

(B) The Committee on National Security and the Committee on International Relations of the House of Representatives.

(5) For purposes of this subsection, the term "Missile Technology Control Regime" means the policy statement announced on April 16, 1987, between the United States, the United Kingdom, the Federal Republic of Germany, France, Italy, Canada, and Japan to restrict sensitive missile-relevant transfers based on the Missile Technology Control Regime Annex, and any amendment thereto.

SEC. 1323.[11] DEPARTMENT OF DEFENSE REVIEW OF EXPORT LICENSES FOR CERTAIN BIOLOGICAL PATHOGENS.

(a) DEPARTMENT OF DEFENSE REVIEW.—Any application to the Secretary of Commerce for a license for the export of a class 2, class 3, or class 4 biological pathogen to a country identified to the Secretary under subsection (c) as a country that is known or suspected to have a biological weapons program shall be referred to the Secretary of Defense for review. The Secretary of Defense shall notify the Secretary of Commerce within 15 days after receipt of an application under the preceding sentence whether the export of such biological pathogen pursuant to the license would be contrary to the national security interests of the United States.

(b) DENIAL OF LICENSE IF CONTRARY TO NATIONAL SECURITY INTEREST.—A license described in subsection (a) shall be denied by the Secretary of Commerce if it is determined that the export of

such biological pathogen to that country would be contrary to the national security interests of the United States.

(c) IDENTIFICATION OF COUNTRIES KNOWN OR SUSPECTED TO HAVE A PROGRAM TO DEVELOP OFFENSIVE BIOLOGICAL WEAPONS.—(1) The Secretary of Defense shall determine, for the purposes of this section, those countries that are known or suspected to have a program to develop offensive biological weapons. Upon making such determination, the Secretary shall provide to the Secretary of Commerce a list of those countries.

(2) The Secretary of Defense shall update the list under paragraph (1) on a regular basis. Whenever a country is added to or deleted from such list, the Secretary shall notify the Secretary of Commerce.

(3) Determination under this subsection of countries that are known or suspected to have a program to develop offensive biological weapons shall be made in consultation with the Secretary of State and the intelligence community.

(d) DEFINITION.—For purposes of this section, the term "class 2, class 3, or class 4 biological pathogen" means any biological pathogen that is characterized by the Centers for Disease Control as a class 2, class 3, or class 4 biological pathogen.

SEC. 1324.[11] ANNUAL REPORTS ON IMPROVING EXPORT CONTROL MECHANISMS AND ON MILITARY ASSISTANCE.

(a) JOINT REPORTS BY SECRETARIES OF STATE AND COMMERCE.—Not later than April 1 of each of 1996 and 1997, the Secretary of State and the Secretary of Commerce shall submit to Congress a joint report, prepared in consultation with the Secretary of Defense, relating to United States export-control mechanisms. Each such report shall set forth measures to be taken to strengthen United States export-control mechanisms, including—

(1) steps being taken by each Secretary (A) to share on a regular basis the export licensing watchlist of that Secretary's department with the other Secretary, and (B) to incorporate the export licensing watchlist data received from the other Secretary into the watchlist of that Secretary's department;

(2) steps being taken by each Secretary to incorporate into the watchlist of that Secretary's department similar data from systems maintained by the Department of Defense and the United States Customs Service; and

(3) a description of such further measures to be taken to strengthen United States export-control mechanisms as the Secretaries consider to be appropriate.

(b) REPORTS BY INSPECTORS GENERAL.—(1) Not later than April 1 of each of 1996 and 1997, the Inspector General of the Department of State and the Inspector General of the Department of Commerce shall each submit to Congress a report providing that official's evaluation of the effectiveness during the preceding year of the export licensing watchlist screening process of that official's department. The reports shall be submitted in both a classified and unclassified version.

(2) Each report of an Inspector General under paragraph (1) shall (with respect to that official's department)—

(A) set forth the number of export licenses granted to parties on the export licensing watchlist;

(B) set forth the number of end-use checks performed with respect to export licenses granted to parties on the export licensing watchlist the previous year;

(C) assess the screening process used in granting an export license when an applicant is on the export licensing watchlist; and

(D) assess the extent to which the export licensing watchlist contains all relevant information and parties required by statute or regulation.

(c) ANNUAL MILITARY ASSISTANCE REPORT.—The Foreign Assistance Act of 1961 is amended by inserting after section 654 (22 U.S.C. 2414) the following new section:

"SEC. 655. ANNUAL REPORT ON MILITARY ASSISTANCE, MILITARY EXPORTS, AND MILITARY IMPORTS. * * *[12]

SEC. 1325. REPORT ON PERSONNEL REQUIREMENTS FOR CONTROL OF TRANSFER OF CERTAIN WEAPONS.

Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense and the Secretary of Energy shall submit to the committees of Congress referred to in subsection (c) of section 1154 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1761) the report required under subsection (a) of that section. The Secretary of Defense and the Secretary of Energy shall include with the report an explanation of the failure of such Secretaries to submit the report in accordance with such subsection (a) and with all other previous requirements for the submittal of the report.

SUBTITLE D—BURDENSHARING AND OTHER COOPERATIVE ACTIVITIES INVOLVING ALLIES AND NATO

SEC. 1331. ACCOUNTING FOR BURDENSHARING CONTRIBUTIONS.

(a) AUTHORITY TO MANAGE CONTRIBUTIONS IN LOCAL CURRENCY, ETC.—Subsection (b) of section 2350j of title 10, United States Code, is amended to read as follows: * * *

SEC. 1332. AUTHORITY TO ACCEPT CONTRIBUTIONS FOR EXPENSES OF RELOCATION WITHIN HOST NATION OF UNITED STATES ARMED FORCES OVERSEAS.

(a) IN GENERAL.—(1) Subchapter II of chapter 138 of title 10, United States Code, is amended by adding at the end the following new section: * * *[13]

(b)[14] EFFECTIVE DATE.—Section 2350k of title 10, United States Code, as added by subsection (a), shall take effect on the date of the enactment of this Act and shall apply to contributions for relocation of elements of the Armed Forces in or to any nation received on or after such date.

SEC. 1333. REVISED GOAL FOR ALLIED SHARE OF COSTS FOR UNITED STATES INSTALLATIONS IN EUROPE.

Section 1304(a) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2890) is amended—

(1) by inserting "(1)" after "so that"; and

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[12] See *Legislation on Foreign Relations Through 2004*, vol. I–A.
[13] Sec. 1332(a) added a new sec. 2350k to 10 U.S.C.
[14] 10 U.S.C. 2350k note.

(2) by inserting before the period at the end the following: ", and (2) by September 30, 1997, those nations have assumed 42.5 percent of such costs".

SEC. 1334. EXCLUSION OF CERTAIN FORCES FROM EUROPEAN END STRENGTH LIMITATION.

(a) EXCLUSION OF MEMBERS PERFORMING DUTIES UNDER MILITARY-TO-MILITARY CONTACT PROGRAM.—Paragraph (3) of section 1002(c) of the Department of Defense Authorization Act, 1985 (22 U.S.C. 1928 note) is amended to read as follows:

"(3) For purposes of this subsection, the following members of the Armed Forces are excluded in calculating the end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO:

"(A) Members assigned to permanent duty ashore in Iceland, Greenland, and the Azores.

"(B) Members performing duties in Europe for more than 179 days under a military-to-military contact program under section 168 of title 10, United States Code.".

SEC. 1335. COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS WITH NATO ORGANIZATIONS.

Section 2350b(e) of title 10, United States Code, is amended—
* * *

SEC. 1336. SUPPORT SERVICES FOR THE NAVY AT THE PORT OF HAIFA, ISRAEL.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Defense should promptly seek to undertake such actions as are necessary—

(1) to ensure that suitable port services are available to the Navy at the Port of Haifa, Israel; and

(2) to ensure the availability to the Navy of suitable services at that port in light of the continuing increase in commercial activities at the port.

(b) REPORT.—Not later than 30 days after the date of the enactment of this Act, the Secretary of the Navy shall submit to Congress a report on the availablity[15] of port services for the Navy in the eastern Mediterranean Sea region. The report shall specify—

(1) the services required by the Navy when calling at the port of Haifa, Israel; and

(2) the availability of those services at ports elsewhere in the region.

SUBTITLE E—OTHER MATTERS

SEC. 1341. PROHIBITION ON FINANCIAL ASSISTANCE TO TERRORIST COUNTRIES.

(a) PROHIBITION.—Subchapter I of chapter 134 of title 10, United States Code, is amended by adding at the end the following: * * *[16]

[15] As enrolled.

[16] Sec. 1341(a) added a new sec. 2249a to 10 U.S.C. Sec. 1341(b) made a clerical amendment to the table of sections of 10 U.S.C.

SEC. 1342.[17] JUDICIAL ASSISTANCE TO THE INTERNATIONAL TRIBUNAL FOR YUGOSLAVIA AND TO THE INTERNATIONAL TRIBUNAL FOR RWANDA.

(a) SURRENDER OF PERSONS.—

(1) APPLICATION OF UNITED STATES EXTRADITION LAWS.—Except as provided in paragraphs (2) and (3), the provisions of chapter 209 of title 18, United States Code, relating to the extradition of persons to a foreign country pursuant to a treaty or convention for extradition between the United States and a foreign government, shall apply in the same manner and extent to the surrender of persons, including United States citizens, to—

(A) the International Tribunal for Yugoslavia, pursuant to the Agreement Between the United States and the International Tribunal for Yugoslavia; and

(B) the International Tribunal for Rwanda, pursuant to the Agreement Between the United States and the International Tribunal for Rwanda.

(2) EVIDENCE ON HEARINGS.—For purposes of applying section 3190 of title 18, United States Code, in accordance with paragraph (1), the certification referred to in that section may be made by the principal diplomatic or consular officer of the United States resident in such foreign countries where the International Tribunal for Yugoslavia or the International Tribunal for Rwanda may be permanently or temporarily situated.

(3) PAYMENT OF FEES AND COSTS.—(A) The provisions of the Agreement Between the United States and the International Tribunal for Yugoslavia and of the Agreement Between the United States and the International Tribunal for Rwanda shall apply in lieu of the provisions of section 3195 of title 18, United States Code, with respect to the payment of expenses arising from the surrender by the United States of a person to the International Tribunal for Yugoslavia or the International Tribunal for Rwanda, respectively, or from any proceedings in the United States relating to such surrender.

(B) The authority of subparagraph (A) may be exercised only to the extent and in the amounts provided in advance in appropriations Acts.

(4) NONAPPLICABILITY OF THE FEDERAL RULES.—The Federal Rules of Evidence and the Federal Rules of Criminal Procedure do not apply to proceedings for the surrender of persons to the International Tribunal for Yugoslavia or the International Tribunal for Rwanda.

(b) ASSISTANCE TO FOREIGN AND INTERNATIONAL TRIBUNALS AND TO LITIGANTS BEFORE SUCH TRIBUNALS.—Section 1782(a) of title 28, United States Code, is amended by inserting in the first sentence after "foreign or international tribunal" the following: ", including criminal investigations conducted before formal accusation".

(c) DEFINITIONS.—For purposes of this section:

[17] 18 U.S.C. 3181 note.

(1) INTERNATIONAL TRIBUNAL FOR YUGOSLAVIA.—The term "International Tribunal for Yugoslavia" means the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law in the Territory of the Former Yugoslavia, as established by United Nations Security Council Resolution 827 of May 25, 1993.

(2) INTERNATIONAL TRIBUNAL FOR RWANDA.—The term "International Tribunal for Rwanda" means the International Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighboring States, as established by United Nations Security Council Resolution 955 of November 8, 1994.

(3) AGREEMENT BETWEEN THE UNITED STATES AND THE INTERNATIONAL TRIBUNAL FOR YUGOSLAVIA.—The term "Agreement Between the United States and the International Tribunal for Yugoslavia" means the Agreement on Surrender of Persons Between the Government of the United States and the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Law in the Territory of the Former Yugoslavia, signed at The Hague, October 5, 1994.

(4) AGREEMENT BETWEEN THE UNITED STATES AND THE INTERNATIONAL TRIBUNAL FOR RWANDA.—The term "Agreement between the United States and the International Tribunal for Rwanda" means the Agreement on Surrender of Persons Between the Government of the United States and the International Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighboring States, signed at The Hague, January 24, 1995.

SEC. 1343. SEMIANNUAL REPORTS CONCERNING UNITED STATES-PEOPLE'S REPUBLIC OF CHINA JOINT DEFENSE CONVERSION COMMISSION.

(a) REPORTS REQUIRED.—The Secretary of Defense shall submit to Congress a semiannual report on the United States-People's Republic of China Joint Defense Conversion Commission. Each such report shall include the following:

(1) A description of the extent to which the activities conducted in, through, or as a result of the Commission could have directly or indirectly assisted, or may directly or indirectly assist, the military modernization efforts of the People's Republic of China.

(2) A discussion of the activities and operations of the Commission, including—

(A) United States funding;

(B) a listing of participating United States officials;

(C) specification of meeting dates and locations (prospective and retrospective);

(D) summary of discussions; and

(E) copies of any agreements reached.

(3) A discussion of the relationship between the "defense conversion" activities of the People's Republic of China and its defense modernization efforts.

(4) A discussion of the extent to which United States business activities pursued, or proposed to be pursued, under the imprimatur of the Commission, or the importation of western technology in general, contributes to the modernization of China's military industrial base, including any steps taken by the United States or by United States commercial entities to safeguard the technology or intellectual property rights associated with any materials or information transferred.

(5) An assessment of the benefits derived by the United States from its participation in the Commission, including whether or to what extent United States participation in the Commission has resulted or will result in the following:

(A) Increased transparency in the current and projected military budget and doctrine of the People's Republic of China.

(B) Improved behavior and cooperation by the People's Republic of China in the areas of missile and nuclear proliferation.

(C) Increased transparency in the plans of the People's Republic of China's for nuclear and missile force modernization and testing.

(6) Efforts undertaken by the Secretary of Defense to—

(A) establish a list of enterprises controlled by the People's Liberation Army, including those which have been successfully converted to produce products solely for civilian use; and

(B) provide estimates of the total revenues of those enterprises.

(7) A description of current or proposed mechanisms for improving the ability of the United States to track the flow of revenues from the enterprises specified on the list established under paragraph (6)(A).

(b) SUBMITTAL OF REPORTS.—A report shall be submitted under subsection (a) not later than August 1 of each year with respect to the first six months of that year and shall be submitted not later than February 1 of each year with respect to the last six months of the preceding year. The first report under such subsection shall be submitted not less than 60 days after the date of the enactment of this Act and shall apply with respect to the six-month period preceding the date of the enactment of this Act.

(c) FINAL REPORT UPON TERMINATION OF COMMISSION.—Upon the termination of the United States-People's Republic of China Joint Defense Conversion Commission, the Secretary of Defense shall submit a final report under this section covering the period from the end of the period covered by the last such report through the termination of the Commission, and subsection (a) shall cease to apply after the submission of such report.

TITLE XIV—ARMS CONTROL MATTERS [18]

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DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

* * * * * * *

SUBTITLE C—PROGRAM AUTHORIZATIONS, RESTRICTIONS, AND LIMITATIONS

SEC. 3131.[19] * * * [Redesignated—2003]

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SUBTITLE D—OTHER MATTERS

SEC. 3151. REPORT ON FOREIGN TRITIUM PURCHASES.

(a) REPORT.—Not later than May 1, 1996, the President shall submit to the congressional defense committees a report on the feasibility of, the cost of, and the policy, legal, and other issues associated with purchasing tritium from various foreign suppliers in order to ensure an adequate supply of tritium in the United States for nuclear weapons.

(b) FORM OF REPORT.—The report shall be submitted in unclassified form, but may contain a classified appendix.

SEC. 3152.[20] * * * [Redesignated—2003]

SEC. 3153.[21] * * * [Repealed—1996]

SEC. 3154.[22] * * * [Redesignated—2003]

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TITLE XXXV—PANAMA CANAL COMMISSION [23]

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[18] For text, see *Legislation on Foreign Relations Through 2004*, vol. II, sec. F.

[19] Formerly at 22 U.S.C. 5952 note. Sec. 3141(f)(6) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1763) redesignated sec. 3131, granting authority to the Secretary of Energy to conduct programs relating to fissile materials, as sec. 4305 of Public Law 107–314, and at 50 U.S.C. 2565.

Previously, sec. 3152 of Public Law 107–314 (116 Stat. 2738) struck out subsec. designation "(a)" and struck out subsec. (b), which had required the Secretary of Energy to report to Congress semiannually on the obligation of funds under this section.

[20] Formerly at 42 U.S.C. 2121 note, relating a study on nuclear test readiness postures. Sec. 3141(e)(9) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1759) redesignated sec. 3152 at 50 U.S.C. 2527 and at sec. 4208 of Public Law 107–314.

[21] Formerly at 42 U.S.C. 2121 note. Sec. 3152(c) of Public Law 105–85 (111 Stat. 2042) repealed sec. 3153, which had required the President to submit a master plan to Congress by March 15, 1996, for the certification, stewardship, and management of warheads in the nuclear weapons stockpile.

[22] Formerly at 42 U.S.C. 2164 note. Sec. 3141(h)(2) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1771) redesignated sec. 3154, relating to a prohibition on international inspections of Department of Energy inspections, as sec. 4501 of Public Law 107–314, and as 50 U.S.C. 2651.

[23] For text, see *Legislation on Foreign Relations Through 2004*, vol. II, sec. G.

o. National Defense Authorization Act for Fiscal Year 1995

Partial text of Public Law 103–337 [S. 2182], 108 Stat. 2663, approved October 5, 1994; amended by Public Law 104–106 [National Defense Authorization Act for Fiscal Year 1996; S. 1124], 110 Stat. 186, approved February 10, 1996; Public Law 104–208 [Illegal Immigration Reform and Immigrant Responsibility Act of 1996; division C of the Omnibus Consolidated Appropriations Act, 1997; H.R. 3610], 110 Stat. 3009, approved September 30, 1996; Public Law 107–108 [Intelligence Authorization Act for Fiscal Year 2002; H.R. 2883], 115 Stat. 1394, approved December 28, 2001; Public Law 108–136 [National Defense Authorization Act for Fiscal Year 2004; H.R. 1588], 117 Stat. 1392, approved November 24, 2003

AN ACT To authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Defense Authorization Act for Fiscal Year 1995".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into three divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

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

SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.

For purposes of this Act, the term "congressional defense committees" means the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives.[1]

[1] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. The Committee on National Security subsequently returned to the name "Committee on Armed Services"; see sec. 1067 of Public Law 106–65 (113 Stat. 774).

NOTE.—Secs. 1006 and 1007 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 419) provided the following:

"SEC. 1006. AUTHORITY FOR OBLIGATION OF CERTAIN UNAUTHORIZED FISCAL YEAR 1995 DEFENSE APPROPRIATIONS.

"(a) AUTHORITY.—The amounts described in subsection (b) may be obligated and expended for programs, projects, and activities of the Department of Defense in accordance with fiscal year 1995 defense appropriations.

"(b) COVERED AMOUNTS.—The amounts referred to in subsection (a) are the amounts provided for programs, projects, and activities of the Department of Defense in fiscal year 1995 defense appropriations that are in excess of the amounts provided for such programs, projects, and activities in fiscal year 1995 defense authorizations.

"(c) DEFINITIONS.—For the purposes of this section:

"(1) FISCAL YEAR 1995 DEFENSE APPROPRIATIONS.—The term 'fiscal year 1995 defense appropriations' means amounts appropriated or otherwise made available to the Department of Defense for fiscal year 1995 in the Department of Defense Appropriations Act, 1995 (Public Law 103–335).

"(2) FISCAL YEAR 1995 DEFENSE AUTHORIZATIONS.—The term 'fiscal year 1995 defense authorizations' means amounts authorized to be appropriated for the Department of Defense for fiscal year 1995 in the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337).

"SEC. 1007. AUTHORIZATION OF PRIOR EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 1995.

"(a) ADJUSTMENT TO PREVIOUS AUTHORIZATIONS.—Amounts authorized to be appropriated to the Department of Defense for fiscal year 1995 in the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337) are hereby adjusted, with respect to any such authorized amount, by the amount by which appropriations pursuant to such authorization were increased (by a supplemental appropriation) or decreased (by a rescission), or both, in title I of the Emergency Supplemental Appropriations and Rescissions for the Department of Defense to Preserve and Enhance Military Readiness Act of 1995 (Public Law 104–6; 109 Stat. 73).

"(b) NEW AUTHORIZATION.—The appropriation provided in section 104 of such Act (109 Stat. 79) is hereby authorized.".

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

SUBTITLE A—AUTHORIZATION OF APPROPRIATIONS

* * * * * * *

SEC. 106. CHEMICAL DEMILITARIZATION PROGRAM.

(a) AUTHORIZATION.—There is hereby authorized to be appropriated for fiscal year 1995 the amount of $599,549,000 for—

(1) the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521); and

(2) the destruction of chemical warfare material of the United States that is not covered by section 1412 of such Act.

(b) LIMITATION.—Of the funds specified in subsection (a)—

(1) $363,584,000 is for operations and maintenance;

(2) $215,265,000 is for procurement; and

(3) $20,700,000 is for research and development efforts in support of the chemical weapons program.

(c) AUTHORITY FOR OBLIGATION OF UNAUTHORIZED APPROPRIATIONS.—The Secretary of Defense may obligate funds appropriated for research, development, test, and evaluation of alternative technologies under the heading "CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE" in title VI of Public Law 103–139 (107 Stat. 1436).

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TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

* * * * * * *

SUBTITLE B—PROGRAM REQUIREMENTS, RESTRICTIONS, AND LIMITATIONS

SEC. 211. SPACE LAUNCH MODERNIZATION.

(a) POLICY.—(1) It is in the Nation's long-term national security and economic interests to regain preeminence in the area of space launch technology and operations.

(2) Access to space at affordable costs is fundamental to maintaining required command, control, communications, intelligence, navigation, weather, and early warning support to United States and coalition forces.

(3) Encouragement of privately financed, cost effective expendable and reusable launch vehicles is in the economic interest of the Department of Defense and the United States Government.

(b) FINDING.—Congress finds that the current Department of Defense space launch infrastructure has several deficiencies, including high cost, excessive management overhead, inadequate operability and responsiveness to satellite launch requirements, lack of standardization, very large launch personnel requirements to support launch operations, over capacity, and technology obsolescence.

(c) REQUIRED ACTIONS.—The Secretary of Defense shall take the following actions in pursuance of the space launch modernization

policy set forth in subsection (a) and to correct the deficiencies described in subsection (b):

(1) Develop an integrated space launch vehicle strategy that, if implemented, would replace or consolidate the current fleet of medium and heavy launch vehicles. Where prudent and cost effective, the strategy should include a plan for the development of new or upgraded expendable launch vehicles.

(2) Implement improved management practices including streamlined acquisition approaches, small government program staff, and minimal program overhead.

(3) Encourage and evaluate innovative acquisition, technical, and financing (including best commercial practices) solutions for providing affordable, operable, reliable, and responsive access to space.

(4) Centralize oversight of launch requirements to ensure integrated evaluation of satellite requirements and launch capabilities.

(5) Encourage and provide incentives for the use of commercial practices in the acquisition, operation, and support of Department of Defense space operations.

(6) Establish effective coordination among military, civilian, and commercial launch developers and users.

(d) ALLOCATION OF FUNDS.—Of the amount authorized to be appropriated in section 201(3), $90,000,000 shall be available for research, development, test, and evaluation of non-man-rated space launch systems and technologies. Of that amount—

(1) $30,000,000 shall be available for a competitive reusable rocket technology program; and

(2) $60,000,000 shall be available for expendable launch vehicle technology development and acquisition, as appropriate.

(e) TRANSFER OF FUNDS.—The Secretary of Defense shall, to the extent provided in appropriations Acts, transfer to the Department of the Air Force the unobligated balance of funds appropriated for fiscal year 1994 to the Department of Defense for the Advanced Research Projects Agency for single-stage to orbit rocket research and development.

(f) PROGRAM PLAN.—The Secretary of Defense and the Administrator of the National Aeronautics and Space Administration shall develop a plan to coordinate the programs of the Department of Defense and the National Aeronautics and Space Administration for expendable and reusable rocket technology demonstrators and technology development. The Secretary of Defense shall submit to Congress the plan developed under this subsection.

(g) LIMITATIONS.—(1) Funds authorized for appropriation in subsection (d)(1) may be obligated only—

(A) to the extent that the fiscal year 1995 current operating plan of the National Aeronautics and Space Administration allocates at least an equal amount for its Reusable Space Launch program; and

(B) as specified in the program plan developed and submitted to Congress pursuant to subsection (f).

(2) Not more than $30,000,000 of the funds authorized in subsection (d)(2) may be obligated until 30 days after the Secretary of Defense submits to Congress program plans, including objectives,

milestones, future years defense program funding, and government-industry cost sharing considerations, as applicable.

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SEC. 221. LIMITATION ON DISMANTLEMENT OF INTERCONTINENTAL BALLISTIC MISSILES.

Funds authorized to be appropriated in this Act may not be obligated or expended for deactivating or dismantling intercontinental ballistic missiles (ICBMs) of the United States below that number of such missiles that is necessary to support 500 deployed intercontinental ballistic missiles until 180 days after the date on which the Secretary of Defense has submitted to the congressional defense committees a report on the results of a nuclear posture review being conducted by the Secretary.

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TITLE X—GENERAL PROVISIONS

SUBTITLE A—FINANCIAL MATTERS

* * * * * * *

SEC. 1002. EMERGENCY SUPPLEMENTAL AUTHORIZATIONS OF APPROPRIATIONS FOR FISCAL YEAR 1994.

(a) AUTHORIZATION OF PRIOR EMERGENCY SUPPLEMENTAL APPROPRIATIONS.—Funds appropriated to the Department of Defense for fiscal year 1994 in chapter 3 of title I of the Emergency Supplemental Appropriations Act of 1994 (Public Law 103–211; 108 Stat. 5) for the purposes stated in section 302 of such Act (108 Stat. 7), relating to the incremental and associated costs of the Department of Defense incurred in connection with ongoing United States operations relating to Somalia, Bosnia, Southwest Asia, and Haiti, are hereby authorized in amounts as follows:

(1) For Military Personnel:
- (A) For the Army, $6,600,000.
- (B) For the Navy, $19,400,000.
- (C) For the Air Force, $18,400,000.

(2) For Operation and Maintenance:
- (A) For the Army, $420,100,000.
- (B) For the Navy, $104,800,000.
- (C) For the Air Force, $560,100,000.
- (D) For Defense-wide activities, $21,600,000.

(3) For Procurement:
- (A) For Aircraft Procurement, Army, $20,300,000.
- (B) For Other Procurement, Army, $200,000.
- (C) For Other Procurement, Air Force, $26,800,000.

(b) AUTHORIZATION OF SUPPLEMENTAL APPROPRIATIONS FOR RELIEF OF RWANDA REFUGEES.—There is authorized to be appropriated to the Emergency Response Fund, Defense, as emergency supplemental appropriations for fiscal year 1994 the sum of $270,000,000 to be used to reimburse appropriations of the Department of Defense for costs incurred for emergency relief for Rwanda.

* * * * * * *

SUBTITLE B—COUNTER-DRUG ACTIVITIES

* * * * * * *

SEC. 1012.[2] OFFICIAL IMMUNITY FOR AUTHORIZED EMPLOYEES AND AGENTS OF THE UNITED STATES AND FOREIGN COUNTRIES ENGAGED IN INTERDICTION OF AIRCRAFT USED IN ILLICIT DRUG TRAFFICKING.

(a) EMPLOYEES AND AGENTS OF FOREIGN COUNTRIES.—Notwithstanding any other provision of law, it shall not be unlawful for authorized employees or agents of a foreign country (including members of the armed forces of that country) to interdict or attempt to interdict an aircraft in that country's territory or airspace if—

(1) that aircraft is reasonably suspected to be primarily engaged in illicit drug trafficking; and

(2) the President of the United States has, during the 12-month period ending on the date of the interdiction, certified to Congress[3] with respect to that country that—

(A) interdiction is necessary because of the extraordinary threat posed by illicit drug trafficking to the national security of that country; and

(B) the country has appropriate procedures in place to protect against innocent loss of life in the air and on the ground in connection with interdiction, which shall at a minimum include effective means to identify and warn an aircraft before the use of force directed against the aircraft.

(b) EMPLOYEES AND AGENTS OF THE UNITED STATES.—Notwithstanding any other provision of law, it shall not be unlawful for authorized employees or agents of the United States (including members of the Armed Forces of the United States) to provide assistance for the interdiction actions of foreign countries authorized under subsection (a). The provision of such assistance shall not give rise to any civil action seeking money damages or any other form of relief against the United States or its employees or agents (including members of the Armed Forces of the United States).

(c)[4] ANNUAL REPORT.—(1) Not later than February 1 each year, the President shall submit to Congress a report on the assistance provided under subsection (b) during the preceding calendar year. Each report shall include for the calendar year covered by such report the following:

(A) A list specifying each country for which a certification referred to in subsection (a)(2) was in effect for purposes of that

[2] 22 U.S.C. 2291–4.

On December 1, 1994, the President issued a determination "with respect to Colombia that: (a) interdiction of aircraft reasonably suspected to be primarily engaged in illicit drug trafficking in that country's airspace is necessary because of the extraordinary threat posed by illicit drug trafficking to the national security of that country; and (b) that country has appropriate procedures in place to protect against innocent loss of life in the air and on the ground in connection with such interdiction, which shall at a minimum include effective means to identify and warn an aircraft before the use of force is directed against the aircraft." (Presidential Determination No. 95–7; 59 F.R. 64835).

A similar determination was issued relating to Peru on December 8, 1994 (Presidential Determination No. 95–9; 59 F.R. 65231).

[3] Sec. 503(a) of Public Law 107–108 (115 Stat. 1405) struck out ", before the interdiction occurs, has determined" and inserted in lieu thereof "has, during the 12-month period ending on the date of the interdiction, certified to Congress".

[4] Sec. 503(b) of Public Law 107–108 (115 Stat. 1405) redesignated subsec. (c) as subsec. (d), and added a new subsec. (c).

subsection during any portion of such calendar year, including the nature of the illicit drug trafficking threat to each such country.

(B) A detailed explanation of the procedures referred to in subsection (a)(2)(B) in effect for each country listed under subparagraph (A), including any training and other mechanisms in place to ensure adherence to such procedures.

(C) A complete description of any assistance provided under subsection (b).

(D) A summary description of the aircraft interception activity for which the United States Government provided any form of assistance under subsection (b).

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

(d)[4] DEFINITIONS.—For purposes of this section:

(1) The terms "interdict" and "interdiction", with respect to an aircraft, mean to damage, render inoperative, or destroy the aircraft.

(2) The term "illicit drug trafficking" means illicit trafficking in narcotic drugs, psychotropic substances, and other controlled substances, as such activities are described by any international narcotics control agreement to which the United States is a signatory, or by the domestic law of the country in whose territory or airspace the interdiction is occurring.

(3) The term "assistance" includes operational, training, intelligence, logistical, technical, and administrative assistance.

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SUBTITLE D—POW/MIA MATTERS

SEC. 1031. ASSISTANCE TO FAMILY MEMBERS OF KOREAN CONFLICT AND COLD WAR POW/MIAS WHO REMAIN UNACCOUNTED FOR.

(a) SINGLE POINT OF CONTACT.—The Secretary of Defense shall designate an official of the Department of Defense to serve as a single point of contact within the department—

(1) for the immediate family members (or their designees) of any unaccounted-for Korean conflict POW/MIA; and

(2) for the immediate family members (or their designees) of any unaccounted-for Cold War POW/MIA.

(b) FUNCTIONS.—The official designated under subsection (a) shall serve as a liaison between the family members of unaccounted-for Korean conflict POW/MIAs and unaccounted-for Cold War POW/MIAs and the Department of Defense and other Federal departments and agencies that may hold information that may relate to such POW/MIAs. The functions of that official shall include assisting family members—

(1) with the procedures the family members may follow in their search for information about the unaccounted-for Korean conflict POW/MIA or unaccounted-for Cold War POW/MIA, as the case may be;

(2) in learning where they may locate information about the unaccounted-for POW/MIA; and

(3) in learning how and where to identify classified records that contain pertinent information and that will be declassified.

(c) ASSISTANCE IN OBTAINING DECLASSIFICATION.—The official designated under subsection (a) shall seek to obtain the rapid declassification of any relevant classified records that are identified.

(d) REPOSITORY.—The official designated under subsection (a) shall provide all documents relating to unaccounted-for Korean conflict POW/MIAs and unaccounted-for Cold War POW/MIAs that are located as a result of the official's efforts to the National Archives and Records Administration, which shall locate them in a centralized repository.

(e) DEFINITIONS.—For purposes of this section:

(1) The term "unaccounted-for Korean conflict POW/MIA" means a member of the Armed Forces or civilian employee of the United States who, as a result of service during the Korean conflict, was at any time classified as a prisoner of war or missing-in-action and whose person or remains have not been returned to United States control and who remains unaccounted for.

(2) The term "unaccounted-for Cold War POW/MIA" means a member of the Armed Forces or civilian employee of the United States who, as a result of service during the period from September 2, 1945, to August 21, 1991, was at any time classified as a prisoner of war or missing-in-action and whose person or remains have not been returned to United States control and who remains unaccounted for.

(3) The term "Korean conflict" has the meaning given such term in section 101(9) of title 38, United States Code.

SEC. 1032. REQUIREMENT FOR SECRETARY OF DEFENSE TO SUBMIT RECOMMENDATIONS ON CERTAIN PROVISIONS OF LAW CONCERNING MISSING PERSONS.

(a) REVIEW.—The Secretary of Defense shall conduct a review of the provisions of chapter 10 of title 37, United States Code, relating to missing persons.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to Congress a report containing the Secretary's recommendations as to whether those provisions of law should be amended.

(c) CONSULTATION.—The review under subsection (a) shall be carried out in consultation with the Secretaries of the military departments.

SEC. 1033. CONTACT BETWEEN THE DEPARTMENT OF DEFENSE AND THE MINISTRY OF NATIONAL DEFENSE OF CHINA ON POW/MIA ISSUES.

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

(1) The Select Committee on POW/MIA Affairs of the Senate, in its final report, dated January 13, 1993, concluded—

(A) that "many American POWs had been held in China during the Korean conflict and that foreign POW camps in both China and North Korea were run by Chinese officials"; and

(B) that "given the fact that only 26 Army and 15 Air Force personnel returned from China following the war,

the committee can now firmly conclude that the People's Republic of China surely has information on the fate of other unaccounted for American POWs from the Korean conflict.".

(2) The Select Committee on POW/MIA Affairs recommended in that report that "the Department of State and Defense form a POW/MIA task force on China similar to Task Force Russia.".

(3) Neither the Department of Defense nor the Department of State has held substantive discussions with officials from the People's Republic of China concerning unaccounted for American prisoners of war of the Korean conflict.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Defense should establish contact with officials of the Ministry of Defense of the People's Republic of China regarding unresolved issues relating to American prisoners of war and American personnel missing in action as a result of the Korean conflict.

SEC. 1034. INFORMATION CONCERNING UNACCOUNTED FOR UNITED STATES PERSONNEL OF THE VIETNAM CONFLICT.

(a) REQUIREMENT.—Not later than 45 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report containing the information specified in subsection (b) pertaining to United States personnel involved in the Vietnam conflict who remain not accounted for.

(b) REQUIRED INFORMATION.—The information to be provided in the report under subsection (a) is as follows:

(1) A complete listing by name of all such personnel about whom it is possible that officials of the Socialist Republic of Vietnam can produce additional information or remains that could lead to the maximum possible accounting for those personnel, as determined on the basis of all information available to the United States Government.

(2) A complete listing by name of all such personnel about whom it is possible that officials of the Lao People's Democratic Republic can produce additional information or remains that could lead to the maximum possible accounting for those personnel, as determined on the basis of all information available to the United States Government.

SEC. 1035. REPORT ON POW/MIA MATTERS CONCERNING NORTH KOREA.

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

(1) The Select Committee on POW/MIA Affairs of the Senate concluded in its final report, dated January 13, 1993, that "it is likely that a large number of possible MIA remains can be repatriated and several records and documents on unaccounted for POW's and MIA's can be provided from North Korea once a joint working level commission is set up under the leadership of the United States.".

(2) The Select Committee recommended in such report that "the Departments of State and Defense take immediate steps to form this commission through the United Nations Command at Panmunjom, Korea" and that the "commission should have

a strictly humanitarian mission and should not be tied to political developments on the Korean peninsula.".

(3) In August 1993, the United States and North Korea entered into an agreement concerning the repatriation of remains of United States personnel.

(4) The establishment of a joint working level commission with North Korea could enhance the prospects for results under the August 1993 agreement.

(b) REPORT.—The Secretary of Defense shall, at the end of January and September of 1995, submit a report to Congress on the status of efforts to obtain information from North Korea concerning United States personnel involved in the Korean conflict who remain not accounted for and to obtain from North Korea any remains of such personnel.

(c) COMMISSION.—The President shall give serious consideration to establishing a joint working level commission with North Korea, consistent with the recommendations of the Select Committee on POW/MIA Affairs of the Senate set forth in the final report of the committee, dated January 13, 1993, to resolve the remaining issues relating to United States personnel who became prisoners of war or missing in action during the Korean conflict.

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SEC. 1036. DISCLOSURE OF INFORMATION CONCERNING UNACCOUNTED FOR UNITED STATES PERSONNEL FROM THE KOREAN CONFLICT, THE VIETNAM ERA, AND THE COLD WAR.

Section 1082 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 50 U.S.C. 401 note)[5] is amended—* * *

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SUBTITLE G—OTHER MATTERS

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SEC. 1073. SENSE OF CONGRESS CONCERNING VISAS FOR HIGH-LEVEL OFFICIALS OF TAIWAN.

It is the sense of Congress that no visa should be denied for a high-level official of Taiwan to enter the United States unless the official is otherwise inadmissible[6] under the immigration laws of the United States.

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TITLE XII—COOPERATIVE THREAT REDUCTION WITH STATES OF FORMER SOVIET UNION[7]

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[5] For text, see page 1132.

[6] Sec. 308(d)(3)(D) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 110 Stat. 3009) struck out "excludable" and inserted in lieu thereof "inadmissible".

[7] For text, see *Legislation on Foreign Relations Through 2004*, vol. II, sec. F.

TITLE XIII—MATTERS RELATING TO ALLIES AND OTHER NATIONS

SUBTITLE A—MATTERS RELATING TO NATO

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SEC. 1302. NORTH ATLANTIC TREATY ORGANIZATION.

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

(1) The North Atlantic Treaty Organization has served as a bulwark of peace, security, and democracy for the United States and the members of the alliance since 1949.

(2) The unswerving resolve of the member states of the North Atlantic Treaty Organization to mutual defense against the threat of communist aggression was central to the demise of the Warsaw Pact.

(3) The North Atlantic Treaty Organization is the most successful international security organization in history and is well suited to help marshal cooperative political, diplomatic, economic, and humanitarian efforts, buttressed by credible military capability aimed at deterring conflict, and thus contributing to international peace and security.

(4) The threat of instability in Eastern and Central Europe, as well as in the Southern and Eastern Mediterranean, continues to pose a fundamental challenge to the interests of the member states of the North Atlantic Treaty Organization.

(5) North Atlantic Treaty Organization assets have been deployed in recent years for more than the territorial defense of alliance members, and the Rome Summit of October 1991 adopted a new strategic concept for the North Atlantic Treaty Organization that entertained the possibility of operations beyond the alliance's self-defense area.

(6) In Oslo in July 1992, and in Brussels in December 1992, the alliance embraced the deployment of North Atlantic Treaty Organization forces to peacekeeping operations under the auspices of the United Nations or the Conference on Security and Cooperation in Europe.

(7) The North Atlantic Treaty Organization should attempt to cooperate with and seek a mandate from international organizations such as the United Nations when considering responses to crises outside the alliances's self-defense area.

(8) Not all members of the international community share a commonality of interests that would ensure timely action by the United Nations Security Council.

(9) It is critical that the security interests of the member countries of the North Atlantic Treaty Organization not be held hostage to indecision at the United Nations or a veto by a permanent member of the Security Council.

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

(1) it should be the policy of the United States that, in accordance with article 53 of the United Nations Charter, the North Atlantic Treaty Organization retains the right of autonomy of action regarding missions in addition to collective defense should the United Nations Security Council or the Conference on Security and Cooperation in Europe fail to act;

(2) while it is desirable to work with other international organizations and arrangements where feasible in dealing with threats to the peace, the North Atlantic Treaty Organization is not an auxiliary to the United Nations or any other organization; and

(3) the member states of the North Atlantic Treaty Organization reserve the right to act collectively in defense of their vital interests.

SEC. 1303. AUTHORIZED END STRENGTH FOR MILITARY PERSONNEL IN EUROPE.

(a) END STRENGTH.—Paragraph (1) of section 1002(c) of the Department of Defense Authorization Act, 1985 (22 U.S.C. 1928 note),[8] is amended to read as follows: * * *

(b)[8] EXCLUSION OF CERTAIN ISLAND-BASED TROOPS IN CALCULATION OF AUTHORIZED END STRENGTH.—Such section is further amended by adding at the end the following new paragraph: * * *

(c) CONFORMING AMENDMENT.—Section 1303 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2546) is repealed.

(d) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1995.

SEC. 1304. ALLIED SHARE OF INSTALLATIONS COSTS.

(a) GOAL FOR ALLIED CONTRIBUTIONS.—In continuing efforts to enter into revised host-nation agreements as described in section 1301(e) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2545) and section 1401(c) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1824), the President shall seek to have European member nations of NATO assume an increased share of the nonpersonnel costs for United States military installations in those nations so that (1)[9] by September 30, 1996, those nations have assumed 37.5 percent of such costs, and (2) by September 30, 1997, those nations have assumed 42.5 percent of such costs.

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

(1) The term "nonpersonnel costs", with respect to United States military installations in European member nations of NATO, means costs for those installations other than costs paid from military personnel accounts.

(2) The term "contributions", with respect to the share of such nonpersonnel costs assumed by the European member nations of NATO, means those cash and in-kind contributions made by such nations that replace expenditures that would otherwise be made by the Secretary using funds appropriated or otherwise made available in defense appropriations Acts.

SEC. 1305. PAYMENTS-IN-KIND FOR RELEASE OF UNITED STATES OVERSEAS MILITARY FACILITIES TO NATO HOST COUNTRIES.

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

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[8] For amended text, see page 1302.

[9] Sec. 1333 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 484) inserted clause designation "(1)" and added clause (2).

(1) The United States has invested $6,500,000,000 in military infrastructure in North Atlantic Treaty Organization (NATO) countries.

(2) As part of an overall plan to reduce United States troop strength overseas, the Department of Defense plans to close, or reduce United States military presence at, 867 military sites outside the United States.

(3) Most of the military sites outside the United States announced for closure are in Europe, where the United States has already closed 434 such sites while carrying out a reduction in troop strength in Europe from 323,432 in 1987 to approximately 100,000 by the end of fiscal year 1996.

(4) When the United States closes military sites in Europe, it leaves buildings, roads, sewers, and other real property improvements behind.

(5) Some of the European NATO allies have agreed to pay the United States for the residual value of the real property improvements left behind.

(6) Although the United States military drawdown has been rapid since 1990, European allies have been slow to pay the United States the residual value of the sites released by the United States.

(7) As of 1994, the United States has recouped only $33,300,000 in cash, most of which was recovered in 1989.

(8) Although the United States has released to Germany over 60 percent of the military sites planned for closure by the United States in that country and the current value of United States facilities to be returned to the German government is estimated at approximately $2,700,000,000, the German government has budgeted only $25,000,000 for fiscal year 1994 for payment of compensation for the United States investment in those facilities.

(b) POLICY.—It is the sense of Congress that—

(1) the President should redouble efforts to recover the value of the United States investment in the military infrastructure in NATO countries;

(2) the President should enter into negotiations with the government of each NATO host country with a presumption that payments to compensate the United States for the negotiated value of improvements will be made in cash and deposited in the Department of Defense Overseas Military Facility Investment Recovery Account;

(3) the President should enter into negotiations for payments-in-kind only as a last resort and only after informing the Congress that negotiations for cash payments have not been successful; and

(4) to the extent that in-kind contributions are received in lieu of cash payments in any fiscal year, the in-kind contributions should be used for projects that are identified priorities of the Department of Defense.

(c) * * *

SEC. 1306.[10] GEORGE C. MARSHALL EUROPEAN CENTER FOR SECURITY STUDIES.

(a) USE OF CONTRIBUTIONS.—Funds received by the United States Government from the Federal Republic of Germany as its fair share of the costs of the George C. Marshall European Center for Security Studies shall be credited to appropriations available to the Department of Defense for the George C. Marshall European Center for Security Studies. Funds so credited shall be merged with the appropriations to which credited and shall be available for the Center for the same purposes and the same period as the appropriations with which merged.

(b) WAIVER OF CHARGES.—(1) The Secretary of Defense may waive reimbursement of the costs of conferences, seminars, courses of instruction, or similar educational activities of the George C. Marshall European Center for Security Studies for military officers and civilian officials from states located in Europe or the territory of the former Soviet Union[11] if the Secretary determines that attendance by such personnel without reimbursement is in the national security interest of the United States.

(2) Costs for which reimbursement is waived pursuant to paragraph (1) shall be paid from appropriations available for the Center.

SEC. 1307. SENSE OF THE SENATE CONCERNING PARTICIPATION IN ALLIED DEFENSE COOPERATION.

It is the sense of the Senate that the President should use existing authorities to the greatest extent possible to authorize the provision of the following types of assistance and cooperation to countries that are participating in the Partnership for Peace and are making significant progress in working with the North Atlantic Treaty Organization:

(1) Defense articles and services, as defined in the Foreign Assistance Act of 1961 and the Arms Export Control Act.

(2) Loan of materials, supplies, and equipment for research and development purposes.

(3) Leases and loans of major defense equipment and other defense articles.

(4) Cooperative military airlift agreements.

(5) The procurement of communications support and related supplies and services.

(6) Actions to standardize equipment with North Atlantic Treaty Organization members.

SUBTITLE B—MATTERS RELATING TO SEVERAL COUNTRIES

SEC. 1311. LIMITATION ON OBLIGATION OF FUNDS FOR OVERSEAS BASING ACTIVITIES.

(a) LIMITATION.—The total amount authorized to be appropriated to the Department of Defense for operation and maintenance and for military construction (including construction and improvement of military family housing) that is obligated to conduct overseas

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

[11] Sec. 1223 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1652) struck out "of cooperation partner states of the North Atlantic Cooperation Council or the Partnership for Peace" and inserted in lieu thereof "from states located in Europe or the territory of the former Soviet Union".

basing activities during fiscal year 1995 may not exceed $8,181,000,000, except to the extent provided by the Secretary of Defense under subsection (b).

(b) EXCEPTION.—The Secretary of Defense may increase the amount of the limitation under subsection (a) by such amount as the Secretary determines to be necessary in the national interest, except that such increase may not exceed $400,000,000. The Secretary may not make any such increase until the Secretary notifies the Congress of the Secretary's intent to make such an increase and a period of 15 days elapses after the day on which the notification is received by the Congress.

(c) ALLOCATIONS OF SAVINGS.—Any amounts appropriated to the Department of Defense for fiscal year 1995 for the purposes covered by subsection (a) that are not available to be used for those purposes by reason of the limitation in that subsection shall be allocated by the Secretary of Defense for operation and maintenance and for military construction activities of the Department of Defense at military installations and facilities located inside the United States.

(d) DEFINITION.—In this section, the term "overseas basing activities" has the meaning given such term in section 1401(d)(2) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1825), except that such term does not include activities of the Department of Defense for which funds are provided through appropriations for Military Personnel.

SEC. 1312. CLARIFICATION AND CODIFICATION OF OVERSEAS MILITARY END STRENGTH LIMITATION.

(a) IN GENERAL.—(1) Chapter 3 of title 10, United States Code, is amended by inserting after section 123a the following new section:

"§ 123b. Forces stationed abroad: limitation on number * * *"[12]

(b) EFFECTIVE DATE.—Section 123b of title 10, United States Code, as added by subsection (a), does not apply with respect to a fiscal year before fiscal year 1996.

(c) CONFORMING REPEAL.—Section 1302 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2545) is repealed.

SEC. 1313.[13] COST-SHARING POLICY AND REPORT.

(a) POLICY.—It is the policy of the United States that the North Atlantic Treaty Organization (NATO) allies should assist the United States in paying the incremental costs incurred by the United States for maintaining members of the Armed Forces in assignments to permanent duty ashore in European member nations of NATO solely for support of NATO roles and missions.

(b) IMPLEMENTATION.—The President shall take all necessary actions to ensure the effective implementation of the policy set forth in subsection (a).

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[12] For text, see page 601.
[13] 10 U.S.C. 1928 note.

(c) REPORT.—The Secretary of Defense shall include in the annual report required by section 1002(d) of the Department of Defense Authorization Act, 1985 (22 U.S.C. 1928 note) the following:

(1) A description of the United States military forces assigned to permanent duty ashore in European member nations of NATO and an analysis of the cost of providing and maintaining such forces in such assignment primarily for support of NATO roles and missions.

(2) A description of the United States military forces assigned to permanent duty ashore in European member nations of NATO primarily in support of other United States interests in other regions of the world and an analysis of the cost of providing and maintaining such forces in such assignment primarily for that purpose.

(3) A specific enumeration and description of the offsets to United States costs of providing and maintaining United States military forces in Europe that the United States received from other NATO member nations in the fiscal year covered by the report, set out by country and by type of assistance, including both in-kind assistance and direct cash reimbursement, and the projected offsets for the five fiscal years following the fiscal year covered by the report.

(d) INCREMENTAL COSTS DEFINED.—For purposes of subsection (a), the definition provided for the term "incremental costs" in section 1046 of the National Defense Authorization Act for Fiscal Years 1992 and 1993, as added by subsection (e), shall apply with respect to maintaining members of the Armed Forces in assignments to permanent duty ashore in European member nations of NATO in the same manner as such term applies with respect to permanent stationing ashore of United States forces in foreign nations for purposes of subsection (e)(4) of such section 1046.

(e) DEFINITION FOR REPORTING REQUIREMENT.—Section 1046 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1466; 22 U.S.C. 1928 note) is amended by adding at the end the following new subsection:

"(f) INCREMENTAL COSTS DEFINED.—In this section, the term 'incremental costs', with respect to permanent stationing ashore of United States forces in foreign nations, means the difference between the costs associated with maintaining United States military forces in assignments to permanent duty ashore in the foreign nations and the costs associated with maintaining those same military forces at military bases in the United States.".

SEC. 1314. REPORT ASSESSING THE NATIONAL SECURITY CONSEQUENCES OF UNITED STATES MILITARY COOPERATION PROGRAMS.

(a) REPORT.—The Secretary of Defense shall submit to Congress a report assessing the national security consequences of United States military cooperation programs. The report shall be submitted not later than the date of the submission to Congress of the next annual report of the Secretary of Defense submitted under section 113 of title 10, United States Code, after the date of the enactment of this Act.

(b) MATTERS TO BE INCLUDED.—The report under subsection (a) shall include the following:

(1) A description of cooperative military relationships in effect.

(2) A description of how activities under those relationships are intended to improve United States national security.

(3) An assessment of the risks to the United States associated with engaging in military cooperation programs with foreign countries should the government of any of such country change its political orientation in a manner hostile to United States interests.

(4) An analysis of the effect on United States national security of possible multilateral actions to reduce the military capability of governments and military forces that could pose a future threat to United States interests.

(5) An assessment of any implications for regional security effected by existing cooperative military relationships.

(c) FORM OF REPORT.—The report under subsection (a) shall be submitted in unclassified form and, to the extent necessary, in classified form.

SEC. 1315. REVIEW AND REPORT REGARDING DEPARTMENT OF DEFENSE PROGRAMS RELATING TO REGIONAL SECURITY AND HOST NATION DEVELOPMENT IN THE WESTERN HEMISPHERE.

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

(1) The political environment in the Western Hemisphere has been characterized in recent years by significant democratic advances and an absence of international strife, but democracy in some nations of the region is fragile.

(2) It is desirable for the Department of Defense to perform a positive role in influencing the defense establishments and military forces of nations in the Western Hemisphere to make positive contributions to the democratic process and to domestic development programs of their respective nations.

(3) Congress receives a number of annual reports relating to specific authorities granted to the Secretary of Defense under title 10, United States Code, such as the authorities relating to the conduct of bilateral or regional cooperation programs under section 1051 of that title, participation of developing countries in combined exercises under section 2010 of that title, and the training of special operations forces with friendly forces under section 2011 of that title.

(4) The annual reports are replete with statistics and dollar figures and generally lacking in substance.

(5) Congress does not receive annual reports with respect to other authorities of the Secretary of Defense, such as that relating to Latin American cooperation under section 1050 of title 10, United States Code.

(6) Testimony before Congress (including in particular the testimony of the commander of the United States Southern Command and the commander of the United States Atlantic Command) has emphasized the conduct of a large number of complementary programs under the leadership and supervision of those two commanders to foster appropriate military roles in democratic host nations and to assist countries in developing forces properly trained to address their security needs, includ-

ing needs regarding illegal immigration, insurgencies, smuggling of illegal arms, munitions, and explosives across borders, and drug trafficking.

(7) Most of the programs referred to in paragraph (6) provide excellent and often unique training and experience to the United States forces involved.

(8) Military-to-military contact programs in the Western Hemisphere provide another tool to encourage a democratic orientation of the defense establishments and military forces of countries in the region.

(9) There is a need for the Secretary of Defense to conduct a comprehensive review of the several authorities in title 10, United States Code, for the Secretary of Defense to engage in cooperative regional security programs with other countries in the Western Hemisphere in order to determine whether the authorities continue to be appropriate and necessary, particularly in the light of the changed circumstances in the region.

(10) There is a need for the Secretary of Defense to conduct a comprehensive review of various programs carried out pursuant to such authorities to ensure that such programs are designed to meet the needs of the host nations involved and the regional strategic and foreign policy objectives of the United States, including promotion of sustainable development, effective control of the military by elected civilian authorities, reliable regional security accords, and the appropriate role for militaries in democratic societies.

(11) There is a need for the Secretary of Defense to assess the strengths and weaknesses of the various regional security organizations, defense forums, and defense education institutions in the Western Hemisphere in order to identify any improvements needed to harmonize the defense policies of the United States and those of friendly nations of the region.

(b) REVIEW AND REPORT.—Not later than May 1, 1995, the Secretary of Defense, shall—

(1) in consultation with the Chairman of the Joint Chiefs of Staff and the commanders of the combatant commands responsible for regions in the Western Hemisphere, carry out a comprehensive review and assessment of the matters referred to in paragraphs (2), (9), (10), and (11) of subsection (a); and

(2) submit to Congress a report on the review and assessment carried out pursuant to paragraph (1).

(c) CONTENT OF REPORT.—The report shall contain a detailed and comprehensive description, discussion, and analysis of the following:

(1) The Department of Defense plan to support United States strategic objectives in the Western Hemisphere.

(2) The external and internal threats to the national security of the nations of the region.

(3) The various regional security cooperative programs carried out by the Department of Defense in the region in 1994, including training and education programs in the host nations and in the United States and defense contacts set forth on a country-by-country basis, the statutory authority, if any, for such programs, and the strategic objectives served.

(4) The various regional security organizations, defense forums, and defense education institutions that the United States maintains or in which the United States participates.

(5) The contribution that such programs, defense contacts, organizations, forums, and institutions make to the advancement of regional security, host nation security and national development, United States strategic objectives, and United States foreign policy objectives as described in paragraph (10) of subsection (a).

(6) United States humanitarian civic assistance and civic action programs conducted with host countries in the region and the effect that those programs have had in furthering the objectives described in paragraph (10) of subsection (a).

(7) The changes made or to be made in the programs, organizations, forums, and institutions referred to in paragraphs (3), (4), (5), and (6) as a result of the comprehensive review.

(d) RECOMMENDED LEGISLATION.—The report shall include any recommendations for legislation that the Secretary considers necessary to improve the ability of the Department to achieve its strategic objectives in the Western Hemisphere.

(e) CLASSIFICATION OF REPORT.—The report shall be submitted in an unclassified form and may, if necessary, have a classified supplement.

SEC. 1316. MILITARY-TO-MILITARY CONTACTS AND COMPARABLE ACTIVITIES.

(a) ACTIVITIES AUTHORIZED.—(1) Chapter 6 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 168. Military-to-military contacts and comparable activities * * *" [14]

(b) FISCAL YEAR 1995 FUNDING.—Of the amount authorized to be appropriated under section 301(5) for operation and maintenance for Defense-wide activities, $46,300,000 shall be available to the Secretary of Defense for the purposes of carrying out activities under section 168 of title 10, United States Code, as added by subsection (a).

(c) FISCAL YEAR 1995 ACTIVE DUTY END STRENGTHS.—(1) A member of a reserve component described in paragraph (2) shall not be counted (under section 115(a)(1) of title 10, United States Code) against the applicable end strength limitation for members of the Armed Forces on active duty for fiscal year 1995 prescribed in section 401.

(2) Paragraph (1) applies in the case of a member of a reserve component who is on active duty under a call or order to active duty for 180 days or more for activities under section 168 of title 10, United States Code, as added by subsection (a).

(d) REPORT.—Not later than February 15, 1995, the Secretary of Defense shall submit to Congress a report on the management structure of the military-to-military contacts program.

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[14] For text, see page 606.

SUBTITLE C—MATTERS RELATING TO SPECIFIC COUNTRIES

SEC. 1321. DEFENSE COOPERATION BETWEEN THE UNITED STATES AND ISRAEL.

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

(1) The President has reiterated the long-standing United States commitment to maintaining the qualitative superiority of the Israeli Defense Force over any combination of adversaries.

(2) Congress continues to recognize the many benefits to the United States from its strategic relationship with Israel, including enhancing regional stability and technical cooperation.

(3) Despite the momentous peace process in which Israel and its neighbors are productively engaged, Israel continues to face difficult threats to its national security that are compounded by the proliferation of weapons of mass destruction and ballistic missiles.

(4) Congress is supportive of the objective of the President to enhance United States-Israel military and technical cooperation, particularly in the areas of missile defense and counterproliferation.

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

(1) the President should ensure that any conventional defense system or technology offered for release to any NATO or other major non-NATO ally should concurrently be available for purchase by Israel unless such action would contravene United States national interests; and

(2) the President should make available to Israel, within existing technology transfer laws, regulations, and policies, advanced United States technology necessary for continued progress in cooperative United States-Israel research and development of theater missile defenses.

SEC. 1322. READINESS OF MILITARY FORCES OF THE REPUBLIC OF KOREA.

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

(1) Under existing security arrangements between the United States and the Republic of Korea, responsibility for the defense of the territory of the Republic of Korea is allocated so that the Republic of Korea has primary responsibility for the ground defense of its territory and the United States has primary responsibility for air and sea defense of the Korean peninsula and for reinforcement.

(2) The Force Improvement Program of the Republic of Korea has not fully addressed critical shortfalls in its ground force capability which continue to exist even though the Republic of Korea spends approximately $12,000,000,000 annually on defense while the Democratic People's Republic of Korea spends approximately $4,000,000,000 annually on defense. The Republic of Korea has directed substantial defense resources to procuring submarines, destroyers, advanced aircraft, and other military systems that are marginal to its primary ground defense responsibility.

(3) The defense acquisition decisions of the Republic of Korea have had the effect of not allowing the Republic of Korea to at-

tain self-sufficiency in its ground defense responsibility. As a result, there exists an undue burden on the United States for the ground defense of the Korean peninsula.

(4) The lack of intelligence capability to forecast the military intentions of the Democratic People's Republic of Korea presents major problems for the combined United States-Republic of Korea defense of South Korea.

(5) A short-warning attack by the Democratic People's Republic of Korea would cause major losses to the combined United States-Republic of Korea ground force.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the President should urge the Republic of Korea to continue to improve its military ground forces with emphasis on counterartillery capabilities, defense against ballistic missiles and weapons of mass destruction, combined United States-Republic of Korea logistics capabilities, combined United States-Republic of Korea medical support, and combined United States-Republic of Korea capabilities for tactical intelligence and indications and warning of a North Korean attack.

(c) REPORT.—Not later than January 15, 1995, the Secretary of Defense shall submit to Congress a report, in classified form, on—

(1) the readiness of the military forces of the Republic of Korea to defeat an attack by the military forces of the Democratic People's Republic of Korea; and

(2) the adequacy of the defense acquisition strategy of the Republic of Korea to meet its primary ground defense mission.

SEC. 1323. MILITARY PLANNING FOR THE SIZE AND STRUCTURE OF A FORCE REQUIRED FOR A MAJOR REGIONAL CONTINGENCY ON THE KOREAN PENINSULA.

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

(1) The Secretary of Defense conducted the Bottom-Up Review during 1993 to establish the size and structure for the Armed Forces for the Post-Cold-War era.

(2) The report on the Bottom-Up Review cites the need for the Armed Forces to be large enough to prevail in two major regional conflicts "nearly simultaneously".

(3) The report on the Bottom-Up Review gives special consideration to a scenario that hypothesizes that the two "nearly simultaneous" conflicts would occur in Korea and the Persian Gulf.

(4) The United States sent 7 Army divisions, the equivalent of 10 Air Force tactical fighter wings, 70 heavy bombers, 6 Navy aircraft carrier battle groups, and 5 Marine Corps brigades to the Persian Gulf to fight the war against Iraq.

(5) The report on the Bottom-Up Review asserts that the forces needed to fight two conflicts similar to that with Iraq can be drawn from a total military force of between 15 and 16 Army divisions, 20 Air Force tactical fighter wings, up to 184 heavy bombers, 11 active Navy aircraft carriers (along with one reserve/training carrier), and the equivalent of 12 Marine Corps brigades.

(6) The report on the Bottom-Up Review recognizes that approximately 100,000 members of the Armed Forces will be stationed in Europe.

(7) The report on the Bottom-Up Review recognizes that sizeable numbers of United States forces could be involved in peace enforcement and intervention operations at any one time.

(8) The report on the Bottom-Up Review makes no specific recommendation as to the number of forces to be held in reserve to provide a rotation base either to relieve troops in the event one or both hypothetical conflicts result in lengthy deployments or to replace combat losses.

(9) Military planners calculate that 430,000 or more United States military personnel may be needed to win a war with North Korea begun by an invasion of South Korea by North Korea.

(10) In a worst case scenario, the size of the force military planners may request to help defend South Korea could exceed the levels that are consistent with the recommendations of the report on the Bottom-Up Review if the existing and future force requirements for a presence in Europe, possible peace enforcement operations, and an adequate rotation base, as well as a second regional conflict, must be fulfilled simultaneously.

(11) The Bottom-Up Review was conducted for the purpose of force-sizing and was not meant to constrain operational planning.

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

(1) the force structure identified in the report on the Bottom-Up Review should not be used to limit the size or structure of the force that United States military commanders may request in preparation for a major regional contingency on the Korean peninsula; and

(2) the conclusions of the Bottom-Up Review should be continuously examined in light of the lessons learned from preparation for a major regional contingency on the Korean peninsula and from other military operations.

(c) SENSE OF CONGRESS CONCERNING SITUATION ON KOREAN PENINSULA.—It is the sense of Congress that the chairmen and ranking minority members of the Committees on Armed Services and chairmen and ranking minority members of the Appropriations Subcommittees on Defense of the Senate and House of Representatives[15] should receive regular briefings from the Secretary of Defense on the situation on the Korean peninsula.

SEC. 1324. SENSE OF CONGRESS CONCERNING THE NORTH KOREAN NUCLEAR WEAPONS DEVELOPMENT PROGRAM.

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

(1) Between 1950 and 1953, the United States led a military coalition that successfully repelled an invasion of the Republic of Korea by North Korea, at a cost of more than 54,000 American lives.

[15] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. The Committee on National Security subsequently returned to the name "Committee on Armed Services"; see sec. 1067 of Public Law 106–65 (113 Stat. 774).

(2) The United States and the Republic of Korea ratified a Mutual Security Treaty in 1954 that commits the United States to helping the Republic of Korea defend itself against external aggression.

(3) Approximately 37,000 United States military personnel are presently stationed in the Republic of Korea.

(4) The United States and the Republic of Korea have regularly conducted joint military exercises, including "Team Spirit" exercises.

(5) North Korea has built up an armed force nearly twice the size of that in the Republic of Korea and has not renounced the use of force, terrorism, and subversion in its attempts to subdue and subjugate the Republic of Korea.

(6) Although North Korea signed the Treaty on the Non-Proliferation of Nuclear Weapons in 1985, it has impeded the international inspection of its nuclear facilities that is required of all signatories of that Treaty.

(7) North Korea's nuclear weapons and ballistic missile programs represent a grave threat to the security of the Korean peninsula and the entire world.

(8) Efforts in recent years by the United States to reduce tensions on the Korean peninsula have included—

(A) the withdrawal of all nuclear weapons from the territory of the Republic of Korea and a reduction in the number of United States military personnel stationed there;

(B) the postponement of the 1994 Team Spirit exercises;

(C) the establishment of direct diplomatic contacts with the North Korean government; and

(D) the offer of expanded diplomatic and economic contacts with North Korea.

(9) Weapons-grade plutonium can be extracted from the fuel rods removed from North Korea's principal reactor at Yongbyon.

(10) International inspectors were not permitted to examine and test in a timely manner spent fuel rods removed from North Korea's principal nuclear reactor at Yongbyon, as required to ensure compliance with North Korea's obligations under the Nuclear Non-Proliferation Treaty.

(11) Diplomacy concerning the North Korean nuclear program has clearly reached a crucial stage, the unsatisfactory resolution of which would place the international nonproliferation regime in jeopardy and threaten the peace and security of the Korean peninsula, the Northeast Asia region, and, by extension, the rest of the world.

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

(1) the announced freeze on the North Korean nuclear program should remain in place until internationally agreed-upon safeguards of any North Korean civilian nuclear program can be made fully effective;

(2) the North Korean government should take a further step toward verified cooperation with the international nonproliferation regime by—

(A) permitting the unfettered international inspection and testing of the spent fuel rods removed from North Ko-

rea's nuclear reactor at the Yongbyon nuclear complex, followed by adequate international supervision of the transfer of all spent fuel rods from the Yongbyon complex and their disposal in another country; and

(B) accepting a comprehensive inspection process as required by the Treaty on the Non-Proliferation of Nuclear Weapons;

(3) a resolution of the inspection controversy at the Yongbyon complex that allows for anything less than the full international inspection of facilities in that complex required by North Korea's obligations under the Nuclear Non-Proliferation Treaty—

(A) would be unsatisfactory; and

(B) should prompt the Government of the United States to take such action as would indicate the severity with which the United States views this provocation against international norms; and

(4) such action should include (but not necessarily be limited to)—

(A) the seeking of international sanctions against North Korea; and

(B) the rescheduling of the Team Spirit exercises for 1994.

SEC. 1325. REPORT ON SECURITY RELATIONSHIP BETWEEN THE UNITED STATES AND JAPAN.

(a) REPORT REQUIRED.—Not later than March 1, 1995, the Secretary of Defense shall submit a report to Congress regarding the security relationship between the United States and Japan.

(b) CONTENT OF REPORT.—The report required by this section shall contain the following:

(1) An evaluation of the security objectives that the United States hopes to achieve in its relationship with Japan.

(2) An analysis of the threats, dangers, and risks to the United States and Japan in the Asia-Pacific region.

(3) An explanation of the United States strategy for achieving its security objectives with Japan and in the Asia-Pacific region.

(4) An evaluation of the role of the United States-Japan Security Treaty in achieving United States security objectives with Japan and in the Asia-Pacific region.

(5) An analysis of the contributions that regional security discussions, consultations, or frameworks could make to the achievement of United States and Japanese security objectives.

(6) A discussion of the process by which the United States and Japan address joint infrastructure matters, such as land and training issues, throughout Japan, including Okinawa.

(7) A description of the United States military facilities in Japan, including Okinawa, that have been transferred to Japan in the previous 10 years.

(8) A description of the contribution that Japan makes to the costs incurred by the United States in stationing military forces in Japan.

(9) A review of the United States military presence in Japan, including Okinawa, that contains the following information:

(A) The number and location of United States personnel.

(B) The number, size, and location of major United States military units.

(C) An inventory and description of the utilization of United States military facilities, including their military, economic, and environmental aspects.

(D) An explanation of the status of discussion between the United States and Japanese governments on joint infrastructure matters.

(E) A description of United States training activities.

TITLE XIV—PEACE OPERATIONS AND HUMANITARIAN ASSISTANCE ACTIVITIES

SUBTITLE A—PEACE OPERATIONS

SEC. 1401. REPORTS ON REFORMING UNITED NATIONS PEACE OPERATIONS.

(a) REPORTS REQUIRED.—The Secretary of Defense shall submit to Congress two reports on proposals by the United States for improving management by the United Nations of peace operations. The Secretary shall submit the first report not later than December 1, 1994, and the second not later than June 1, 1995.

(b) STATUS OF IMPLEMENTATION OF UNITED STATES PROPOSALS.—Each report shall contain—

(1) a discussion of the status of implementation of proposals by the United States contained in section IV (relating to strengthening the United Nations) of the document entitled "The Clinton Administration's Policy on Reforming Multilateral Peace Operations" that was issued by the Executive Office of the President in May 1994; and

(2) an analysis of the results of such implementation.

(c) SUBJECTS TO BE COVERED.—Each report shall cover, at a minimum, the following matters:

(1) The reconfiguration and expansion of the staff for the United Nations Department of Peacekeeping Operations.

(2) The reasons for lengthy, potentially disastrous delays after a peace operation has been authorized and steps by the United Nations to reduce those delays.

(3) The establishment by the United Nations of a professional peace operations training program for commanders and other military and civilian personnel.

(4) Assistance by the United States to facilitate improvements by the United Nations in the matters described in paragraphs (1) and (3) and the terms under which such assistance has been or is being provided.

(d) PEACE OPERATION DEFINED.—In this section, the term "peace operation" means an operation to maintain or restore international peace and security under chapter VI or chapter VII of the Charter of the United Nations.

SEC. 1402. REPORT ON MILITARY READINESS IMPLICATIONS OF BOSNIA PEACEKEEPING DEPLOYMENT.

(a) REPORT.—(1) The Secretary of Defense shall submit to the congressional defense committees a report assessing the implications for United States military readiness of the participation of

United States ground combat forces in peacekeeping operations within Bosnia-Hercegovina.

(2) The report shall be submitted not later than 90 days after the date of the enactment of this Act or 30 days following the deployment of United States ground forces to Bosnia-Hercegovina, whichever occurs sooner.

(b) MATTERS TO BE INCLUDED.—The report under subsection (a) shall include the following:

(1) An estimate of the total number of forces required to carry out such an operation, including forces required for a rotation base.

(2) An estimate of the expected duration of such an operation.

(3) An estimate of the cost of such an operation, together with an explanation of how the Secretary proposes to provide funds for such an operation and an assessment of how such proposed funding plan would affect overall military readiness.

(4) An assessment of the effect such an operation would have on the ability of the United States Armed Forces to execute successfully the two nearly-simultaneous major regional conflict strategy articulated in the Bottom-Up Review.

(5) An assessment of how readily forces participating in such an operation could be redeployed to a major regional conflict, including an analysis of the availability of strategic lift, the likely condition of equipment, and the extent of retraining necessary to facilitate such a redeployment.

(6) An assessment of the effect such an operation would have on the general combat readiness and deployability of combat units designated to be part of the contingency force, including the extent to which contingency force combat units would support the initial deployment and subsequent rotations.

(7) An assessment of the effect such an operation would have on the general combat readiness and deployability of combat units not designated to be part of the contingency force, including the extent to which non-contingency force combat units would support the initial deployment and subsequent rotations.

(8) For the initial deployment and subsequent rotations, an assessment of the number and type of combat support and combat service support units required from active forces, including how many of such units are designated to support the deployment of the contingency force.

(9) An assessment of the degree to which such an operation would require the use of reserve component units and personnel and the use and timing of involuntary Selected Reserve call-up authority as provided by section 673b of title 10, United States Code.

(10) An assessment of the anticipated cost of equipment refurbishment resulting from such an operation.

(11) An assessment of how the increased operational tempo associated with such an operation would affect the mission capable readiness rates and overall health of both strategic and theater airlift assets.

(c) DEFINITIONS.—For purposes of this section:

(1) The term "contingency force" includes—

(A) the set of four or five Army divisions that is designated as the Army contingency force by the Secretary of the Army, as well as Army active duty and reserve component combat, combat support, and combat service support units designated to respond to a regional conflict within the first 75 days of such conflict; and

(B) Air Force, Navy, and Marine Corps active duty and reserve component combat, combat support, and combat service support units designated to respond to a regional conflict within the first 75 days of such conflict.

(2) The term "Bottom-Up Review" means the October 1993 Department of Defense report entitled "Report on the Bottom-Up Review".

(d) CLASSIFICATION OF REPORT.—The report required by subsection (a) shall be submitted in unclassified form and, if necessary, in classified form.

SEC. 1403. REPORT ON INTELLIGENCE LESSONS LEARNED FROM UNITED STATES ACTIVITIES IN SOMALIA.

(a) REPORT.—The Secretary of Defense shall submit to Congress a report on the intelligence lessons learned from the United States participation in United Nations activities in Somalia.

(b) MATTERS TO BE INCLUDED.—The report shall—

(1) specifically describe the availability of intelligence on forces of other nations and of indigenous forces operating in Somalia before, during, and after the insertion of United States forces; and

(2) set forth a complete review of any intelligence failures, any equipment failures, and any equipment unavailability in the theater.

(c) SUBMISSION OF REPORT.—The report shall be submitted not later than 180 days after the date of the enactment of this Act.

SEC. 1404. BOSNIA AND HERCEGOVINA.

(a) PURPOSE.—It is the purpose of this section—

(1) to express the sense of Congress concerning the international efforts to end the conflict in Bosnia and Hercegovina; and

(2) to establish a process to end the arms embargo on the Government of Bosnia and Hercegovina.

(b) STATEMENT OF SUPPORT.—The Congress supports the efforts of the Contact Group to bring about a peaceful settlement of the conflict in Bosnia and Hercegovina based upon the Contact Group proposal.

(c) SENSE OF CONGRESS.—It is the sense of Congress that:

(1) The United States should work with the member nations of the North Atlantic Treaty Organization and with other permanent members of the United Nations Security Council to bring about a peaceful settlement of the conflict in Bosnia and Hercegovina which maintains the territorial integrity of Bosnia and Hercegovina.

(2) A peaceful settlement of the conflict must preserve an economically, politically, and militarily viable Bosnian state capable of exercising its rights under the Charter of the United

Nations as part of a peaceful settlement, which rights include the inherent right of a sovereign state to self defense.

(3) The acceptance of the Contact Group proposal by the Government of Bosnia and Hercegovina should lead to the lifting of the Bosnia arms embargo.

(4) In providing weapons to the Bosnian Government or taking other actions, care should be taken to provide for the safety of the United Nations Protection Force (UNPROFOR) and the civilian personnel working for the United Nations or nongovernmental volunteer organizations.

(5) The United States should immediately seek to organize an international effort to provide assistance to the states bordering Serbia and Montenegro to bring about more effective enforcement by those states of the international economic sanctions on the Government of Serbia and Montenegro.

(d) GENERAL UNITED STATES POLICY.—The United States should exercise leadership within the international community to cause the Bosnian Serb faction to accept the Contact Group proposal. Such action should be taken on separate but complementary international and unilateral tracks, as set forth in subsections (e), (f), and (g).

(e) INTERNATIONAL POLICY.—If the Bosnian Serbs do not accept the Contact Group proposal by the date that is the later of October 15, 1994, or the end of the 10-day period beginning on the date of the enactment of this Act, the President (or his representative) should, not later than 14 days thereafter, formally introduce and support in the United Nations Security Council a resolution to terminate the Bosnia arms embargo. The resolution should provide for the termination of the arms embargo no later than December 1, 1994 (and may allow for the termination to be accomplished in stages ending no later than that date).

(f)[16] UNILATERAL UNITED STATES POLICY.—(1) If by the earlier of November 15, 1994, or the end of the 15-day period beginning on the date on which a resolution described in subsection (e) (or a similar resolution) is formally introduced, the United Nations Security Council has not agreed to such a resolution and the Bosnian Serbs have not accepted the Contact Group proposal—

(A) the funding limitation specified in paragraph (2) shall be in effect;

(B) the President shall submit a plan to, and shall consult with, Congress on the manner in which United States Armed

[16] The President issued the following determination on November 12, 1994:

"Pursuant to the authority provided in section 1404(f)(3)(A) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337) (the 'Act'), I hereby determine that the limitation in section 1404(f)(2) of the Act is waived in the case of U.S. military personnel serving in NATO headquarters positions, including the following:

"(1) All U.S. military personnel assigned to or performing duties at NATO Headquarters in Brussels, Belgium.

"(2) The Commanders and all U.S. military personnel assigned to or performing duties at the staffs of the Supreme Allied Commander, Europe or the Supreme Allied Commander, Atlantic.

"(3) The Commanders and all U.S. military personnel assigned to or performing duties at the staff of the Commander in Chief, Allied Forces Southern Europe.

"(4) Those U.S. Commanders and U.S. military personnel assigned to or performing duties at subordinate NATO headquarters staffs of the above listed staffs.

"(5) Those U.S. Commanders and other U.S. military personnel assigned to or performing duties at other Allied Forces Europe staffs, such as Commander in Chief, Allied Forces Central Europe." (Presidential Determination No. 95–4; 59 F.R. 64109).

Forces and the military forces of friendly states would provide training to the armed forces of the Government of Bosnia and Hercegovina outside of the territory of Bosnia and Hercegovina; and

(C) the President shall submit a plan to, and shall consult with, Congress regarding the unilateral termination by the United States of compliance with the Bosnia arms embargo and the implications thereof.

(2) If the funding limitation specified in this paragraph is in effect pursuant to paragraph (1)(A), then no funds appropriated by any provision of law may be used for the purpose of participation in, support for, or assistance to the enforcement of the Bosnia arms embargo by any Department, agency or other entity of the United States (or by any officer or employee of the United States or member of the Armed Forces of the United States) other than as required of all United Nations member states under the United Nations Security Council resolution referred to in subsection (h)(3) and the Charter of the United Nations.

(3)(A) The President may waive the limitation in paragraph (2) in the case of United States military personnel serving in NATO headquarters positions.

(B) Nothing in paragraph (2) is intended to impede enforcement of sanctions against Serbia.

(g) INTERIM POLICY.—If the Bosnian Serb faction attacks any area within those areas that have been designated by the United Nations as "safe areas", the President (or his representative) should promptly formally introduce and support in the United Nations Security Council a resolution that authorizes a selective lifting of the Bosnia arms embargo in order to allow the provision of defensive weapons (such as anti-tank weapons, counter-battery radars, and mortars) to enable the forces of the Government of Bosnia and Hercegovina to defend the safe areas.

(h) DEFINITIONS.—For purposes of this section:

(1) The term "Contact Group" means the group composed of representatives of the United States, Russia, France, Britain, and Germany seeking to bring about a peaceful settlement of the conflict in Bosnia and Hercegovina.

(2) The term "Contact Group proposal" means the peace proposal of the Contact Group that has been agreed to by the Government of Bosnia and Hercegovina and rejected by the Bosnian Serb faction.

(3) The term "Bosnia arms embargo" means application to the Government of Bosnia and Hercegovina of the arms embargo imposed by United Nations Security Council resolution 713, of September 25, 1991.

SUBTITLE B—ASSISTANCE ACTIVITIES

SEC. 1411. OVERSEAS HUMANITARIAN, DISASTER, AND CIVIC AID PROGRAMS.

(a) OHDACA PROGRAMS.—For purposes of section 301 and other provisions of this Act, programs of the Department of Defense designated as Overseas Humanitarian, Disaster, and Civic Aid (OHDACA) programs are the programs provided by—

(1) sections 401, 402, 2547, and 2551 of title 10, United States Code;

(2) section 404 of title 10, United States Code, as added by section 1412; and

(3) section 1413 of this Act.[17]

(b) LIMITATION.—Not more than one-half of the amount authorized to be appropriated in section 301 for those programs may be obligated until the regulations required to be prescribed by subsection (a) of section 1504 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1839) have been prescribed.

SEC. 1412. FOREIGN DISASTER ASSISTANCE.

(a) AUTHORITY.—Subchapter I of chapter 20 of title 10, United States Code, is amended by adding at the end the following new section: * * *[18]

SEC. 1413.[19] * * * [Repealed—1996]

TITLE XV—ARMS CONTROL MATTERS[20]

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TITLE XXXVI—PANAMA CANAL COMMISSION[21]

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[17] Sec. 1413 of this Act was repealed by sec. 1313(c) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 475).

[18] Sec. 1412 added a new sec. 404 to 10 U.S.C., relating to foreign disaster assistance.

[19] Formerly at 10 U.S.C. 401 note. Sec. 1313(c) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 475) repealed sec. 1413, which had provided as follows:

"SEC. 1413. HUMANITARIAN ASSISTANCE PROGRAM FOR CLEARING LANDMINES.

"(a) PROGRAM AUTHORIZED.—The Secretary of Defense shall carry out a program for humanitarian purposes to provide assistance to other nations in the detection and clearance of landmines. Such assistance shall be provided through instruction, education, training, and advising of personnel of those nations in the various procedures that have been determined effective for detecting and clearing landmines.

"(b) FORMS OF ASSISTANCE.—The Secretary may provide assistance under subsection (a) by—

"(1) providing Department of Defense personnel to conduct the instruction, education, or training or to furnish advice; or

"(2) providing financial assistance or in-kind assistance in support of such instruction, education, or training.

"(c) LIMITATION ON UNITED STATES MILITARY PERSONNEL.—The Secretary of Defense shall ensure that no member of the Armed Forces of the United States—

"(1) while providing assistance under subsection (a), engages in the physical detection, lifting, or destroying of landmines (unless the member does so for the concurrent purpose of supporting a United States military operation); or

"(2) provides such assistance as part of a military operation that does not involve the Armed Forces of the United States.

"(d) USE OF FUNDS.—Of the amount authorized to be appropriated by section 301 for Overseas Humanitarian, Disaster, and Civic Aid (OHDACA) programs of the Department of Defense, not more than $20,000,000 shall be available for the program under subsection (a). Such amount may be used—

"(1) for activities to support the clearing of landmines for humanitarian purposes, including activities relating to the furnishing of education, training, and technical assistance;

"(2) for the provision of equipment and technology by transfer or lease to a foreign government that is participating in a landmine clearing program under this section; and

"(3) for contributions to nongovernmental organizations that have experience in the clearing of landmines to support activities described in subsection (a).

"(e) NOTICE TO CONGRESS.—The Secretary of Defense shall provide notice to Congress of any activity carried out under this section.".

[20] For text, see *Legislation on Foreign Relations Through 2004*, vol. II.

[21] See *Legislation on Foreign Relations Through 2004*, vol. II.

p. National Defense Authorization Act for Fiscal Year 1994

Partial text of Public Law 103–160 [H.R. 2401], 107 Stat. 1547, approved November 30, 1993; amended by Public Law 103–337 [National Defense Authorization Act for Fiscal Year 1995; S. 2182], 108 Stat. 2663, approved October 5, 1994; Public Law 104–106 [National Defense Authorization Act for Fiscal Year 1996; S. 1124], 110 Stat. 186, approved February 10, 1996; Public Law 104–201 [National Defense Authorization Act for Fiscal Year 1997; H.R. 3230], 110 Stat. 2422, approved September 23, 1996; Public Law 105–85 [National Defense Authorization Act for Fiscal Year 1998; H.R. 1119], 111 Stat. 1629, approved November 18, 1997; and by Public Law 105–261 [Strom Thurmond National Defense Authorization Act for Fiscal Year 1999; H.R. 3616], 112 Stat. 1920, approved October 17, 1998

AN ACT To authorize appropriations for fiscal year 1994 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Defense Authorization Act for Fiscal Year 1994".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into three divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows: * * *

SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.

For purposes of this Act, the term "congressional defense committees" means the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives.[1]

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Subtitle A—Authorization of Appropriations

* * * * * * *

[1] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. The Committee on National Security subsequently returned to the name "Committee on Armed Services"; see sec. 1067 of Public Law 106–65 (113 Stat. 774).

SEC. 107. CHEMICAL DEMILITARIZATION PROGRAM.

(a) AUTHORIZATION.—There is hereby authorized to be appropriated for fiscal year 1994 the amount of $379,561,000 for—

(1) the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521); and

(2) the destruction of chemical warfare material of the United States that is not covered by section 1412 of such Act.

(b) LIMITATION.—Of the funds specified in subsection (a)—

(1) $280,361,000 is for operations and maintenance;

(2) $72,600,000 is for procurement; and

(3) $26,600,000 is for research and development efforts in support of the nonstockpile chemical weapons program.

(c) CLARIFICATION OF COOPERATIVE AGREEMENT AUTHORITY.—Subsection (c)(3) of section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), is amended by striking out "and approving" in the third sentence and inserting in lieu thereof ", approving, and overseeing".

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TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

* * * * * * *

SEC. 306. FUNDS FOR CLEARING LANDMINES.

(a) LIMITATION.—Of the funds authorized to be appropriated in section 301, not more than $10,000,000 shall be available for activities to support the clearing of landmines for humanitarian purposes (as determined by the Secretary of Defense), including the clearing of landmines in areas in which refugee repatriation programs are on-going.

(b) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the implementation of subsection (a). The report shall specify the following:

(1) The amount of the funds made available under subsection (a) that are to be expended.

(2) The purposes for which the funds are to be expended.

(3) The location of the landmine clearing activity.

(4) Any use of United States military personnel or employees of the Department of Defense in the activity.

(5) Any use of non-Federal Government organizations in the activity.

(6) The relationship between the activity and the missions of the Department of Defense.

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TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

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Subtitle E—Other Matters

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SEC. 843.[2] REPORTS BY DEFENSE CONTRACTORS OF DEALINGS WITH TERRORIST COUNTRIES.

(a) REPORT REQUIREMENT.—(1) Whenever the Secretary of Defense proposes to enter into a contract with any person for an amount in excess of $5,000,000 for the provision of goods or services to the Department of Defense, the Secretary shall require that person—

(A) before entering into the contract, to report to the Secretary each commercial transaction which that person has conducted with the government of any terrorist country during the preceding three years or the period since the effective date of this section, whichever is shorter; and

(B) to report to the Secretary each such commercial transaction which that person conducts during the course of the contract (but not after the date specified in subsection (h)) with the government of any terrorist country.

(2) The requirement contained in paragraph (1)(B) shall be included in the contract with the Department of Defense.

(b) REGULATIONS.—The Secretary of Defense shall prescribe such regulations as may be necessary to carry out this section.

(c) ANNUAL REPORT TO CONGRESS.—The Secretary of Defense shall submit to the Congress each year by December 1 a report setting forth those persons conducting commercial transactions with terrorist countries that are included in the reports made pursuant to subsection (a) during the preceding fiscal year, the terrorist countries with which those transactions were conducted, and the nature of those transactions. The version of the report made available for public release shall exclude information exempt from public disclosure under section 552 of title 5, United States Code (commonly known as the Freedom of Information Act).

(d) LIABILITY.—This section shall not be interpreted as imposing any liability on a person for failure to comply with the reporting requirement of subsection (a) if the failure to comply is caused solely by an act or omission of a third party.

(e) PERSON DEFINED.—For purposes of this section, the term "person" means a corporate or other business entity proposing to enter or entering into a contract covered by this section. The term does not include an affiliate or subsidiary of the entity.

(f) TERRORIST COUNTRY DEFINED.—A country shall be considered to be a terrorist country for purposes of a contract covered by this section if the Secretary of State has determined pursuant to law, as of the date that is 60 days before the date on which the contract is signed, that the government of that country is a government that has repeatedly provided support for acts of international terrorism.

(g) EFFECTIVE DATE.—This section shall apply with respect to contracts entered into after the expiration of the 90-day period beginning on the date of the enactment of this Act, or after the expiration of the 30-day period beginning on the date of publication in

[2] 10 U.S.C. 2327 note.

the Federal Register of the final regulations referred to in subsection (b), whichever is earlier.

(h) TERMINATION.—This section expires on September 30, 1996.

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TITLE XI—GENERAL PROVISIONS

Subtitle A—Financial Matters

SEC. 1101. TRANSFER AUTHORITY.

(a) AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 1994 between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations that the Secretary of Defense may transfer under the authority of this section may not exceed $2,000,000,000.

(b) LIMITATIONS.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) EFFECT ON AUTHORIZATION AMOUNTS.—A transfer made from one account to another under the authority of this section shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(d) NOTICE TO CONGRESS.—The Secretary of Defense shall promptly notify Congress of transfers made under the authority of this section.

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SEC. 1108. FUNDING STRUCTURE FOR CONTINGENCY OPERATIONS.

(a)[3] * * *

(b) FIRST YEAR FUNDING.—There is hereby authorized to be appropriated for fiscal year 1994 to the fund established under section 127a(e) of title 10, United States Code, as added by subsection (a), the sum of $10,000,000.[4]

Subtitle B—Fiscal Year 1993 Authorization Matters

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[3] Sec. 1108(a)(1) added a new sec. 127a to 10 U.S.C., relating to expenses for contingency operations.

[4] Sec. 127a(e), 10 U.S.C., as added by subsec. (a) of this section, established a Department of Defense reserve fund, known as the "National Contingency Operation Personnel Fund", to make funds available for "incremental military personnel costs attributable to a National Contingency Operation.".

SEC. 1113. SUPPLEMENTAL AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1993.

(a) AUTHORIZATION OF SUPPLEMENTAL APPROPRIATIONS.—There is authorized to be appropriated for fiscal year 1993 for covering the incremental costs arising from Operation Restore Hope, Operation Provide Comfort, and Operation Southern Watch, and deficiencies in funding of the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS), and for repairing flood damage at Camp Pendleton, California, $1,246,928 as follows: * * *

(2) For Operation and Maintenance: * * *

(G) For Humanitarian Assistance, $23,000,000.

(b) * * *

Subtitle C—Counter-Drug Activities

SEC. 1121. DEPARTMENT OF DEFENSE SUPPORT FOR COUNTER-DRUG ACTIVITIES OF OTHER AGENCIES.

(a)–(b) * * *

(c) FUNDING OF SUPPORT ACTIVITIES.—Of the amount authorized to be appropriated for fiscal year 1994 under section 301(15) for operation and maintenance with respect to drug interdiction and counter-drug activities, $40,000,000 shall be available to the Secretary of Defense for the purposes of carrying out section 1004 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 374 note).

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Subtitle G—Congressional Findings, Policies, Commendations, and Commemorations

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SEC. 1163. SENSE OF CONGRESS REGARDING UNITED STATES POLICY ON PLUTONIUM.

(a) FINDING.—The Congress finds that reprocessing spent nuclear fuel referred to in subsection (c) to recover plutonium may pose serious environmental hazards and increase the risk of proliferation of weapons-usable plutonium.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the President should take action to encourage the reduction or cessation of the reprocessing of spent nuclear fuel referred to in subsection (c) to recover plutonium until the environmental and proliferation concerns related to such reprocessing are resolved.

(c) COVERED SPENT NUCLEAR FUEL.—The spent nuclear fuel referred to in subsections (a) and (b) is spent nuclear fuel used in a commercial nuclear power reactor by the Government of a foreign country or by a foreign-owned or foreign-controlled entity.

SEC. 1164. SENSE OF SENATE ON ENTRY INTO THE UNITED STATES OF CERTAIN FORMER MEMBERS OF THE IRAQI ARMED FORCES.

It is the sense of the Senate that no person who was a member of the armed forces of Iraq during the period from August 2, 1990, through February 28, 1991, and who is in a refugee camp in Saudi Arabia as of the date of enactment of this Act should be granted

entry into the United States under the Immigration and Nationality Act unless the President certifies to Congress before such entry that such person—

(1) assisted the United States or coalition armed forces after defection from the armed forces of Iraq or after capture by the United States or coalition armed forces; and

(2) did not commit or assist in the commission of war crimes.

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Subtitle H—Other Matters

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SEC. 1186. EXPORT LOAN GUARANTEES.

(a) AUTHORITY TO PROVIDE LOAN GUARANTEES.—Subject to subsection (b) and subject to the availability of appropriations for this purpose, the President may carry out a program to issue guarantees during fiscal year 1994 against the risk of nonpayment arising out of loan financing of the sale of defense articles and defense services to any member nation of the North Atlantic Treaty Organization (other than the United States), Israel, Australia, Japan, or the Republic of Korea. The aggregate amount guaranteed under this section in such fiscal year may not exceed $1,000,000,000.

(b) CERTIFICATION OF INTENT TO USE AUTHORITY.—The President may not issue guarantees under the loan guarantee program unless, not later than the end of the 180-day period beginning on the date of the enactment of this Act, the President certifies to Congress that—

(1) the President intends to issue loan guarantees under the loan guarantee program;

(2) the exercise of the authority provided under the program is consistent with the objectives of the Arms Export Control Act (22 U.S.C. 2751 et seq.); and

(3) the exercise of the authority provided under the program is consistent with the policy of the United States regarding conventional arms sales and nonproliferation goals.

(c) PROHIBITION ON USE OF CERTAIN FUNDS.—None of the funds authorized to be appropriated in this Act and made available for defense conversion, reinvestment, and transition assistance programs (as defined in section 1302(c)) may be used to finance the subsidy cost of loan guarantees issued under this section.

(d) TERMS AND CONDITIONS.—(1) In issuing guarantees under the loan guarantee program for medium- and long-term loans for sales of defense articles or defense services, the President may not offer terms and conditions more beneficial than would be provided by the Export-Import Bank of the United States under similar circumstances in conjunction with the provision of guarantees for nondefense articles and services.

(2) The issuance of loan guarantees for exports under the loan guarantee program shall be subject to all United States Government review procedures for arms sales to foreign governments and shall be consistent with United States policy on arms sales to those nations referred to in subsection (a).

(e) SUBSIDY COST AND FUNDING.—(1) There is authorized to be appropriated for fiscal year 1994, $25,000,000 for the subsidy cost of the loan guarantees issued under this section.

(2) Funds authorized to be available for the Export-Import Bank of the United States may not be used for the execution of the loan guarantee program.

(f) EXECUTIVE AGENCY.—The Department of Defense shall be the executive agency responsible for administration of the loan guarantee program unless the President, in consultation with Congress, designates another department or agency to implement the program. Applications for guarantees issued under this section shall be submitted to the Secretary of Defense, who may make such arrangements as are necessary with other departments or agencies to process the applications and otherwise to implement the loan guarantee program.

(g) FEES CHARGED AND COLLECTED.—A fee shall be charged for each guarantee issued under the loan guarantee program. All fees collected in connection with guarantees issued under the program under this section shall be available to offset the cost of guarantee obligations under the program. All of the fees collected under this subsection, together with earnings on those fees and other income arising from guarantee operations under the program, shall be held in a financing account maintained in the Treasury of the United States. All funds in such account may be invested in obligations of the United States. Any interest or other receipts derived from such investments shall be credited to such account and may be used for the purposes of the program.

(h) NATIONAL SECURITY COUNCIL REVIEW PROCESS.—In addition to the interagency review process for arms sales to foreign governments referred to in subsection (d)(2), the National Security Council shall review each proposed sale for which a guarantee is proposed to be issued under the loan guarantee program to determine whether the sale is in accord with United States security interests, that it contributes to collective defense burden sharing, and that it is consistent with United States nonproliferation goals.

(i) DEFINITIONS.—For purposes of this section, the terms "defense article", "defense service", and "defense articles and defense services" have the meanings given those terms in section 47 of the Arms Export Control Act (22 U.S.C. 2794).

TITLE XII—COOPERATIVE THREAT REDUCTION WITH STATES OF FORMER SOVIET UNION[5]

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[5] For text, see *Legislation on Foreign Relations Through 2004*, vol. II, sec. F.

TITLE XIII—DEFENSE CONVERSION, REINVESTMENT, AND TRANSITION ASSISTANCE

SEC. 1301.[6] SHORT TITLE.

This title may be cited as the "Defense Conversion, Reinvestment, and Transition Assistance Amendments of 1993".

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Subtitle D—National Shipbuilding Initiative

SEC. 1351.[7] SHORT TITLE.

This subtitle may be cited as the "National Shipbuilding and Shipyard Conversion Act of 1993".

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SEC. 1355. AUTHORITY FOR SECRETARY OF TRANSPORTATION TO MAKE LOAN GUARANTEES.

(a)[8] IN GENERAL.—Title XI of the Merchant Marine Act, 1936, is further amended by adding at the end the following new section: * * *

(b)[9] IMPLEMENTATION.—

(1) INITIAL DESIGNATION OF COUNCIL MEMBERS.—Each member of the council established under section 1111(b) of the Merchant Marine Act, 1936, as added by subsection (a), shall name a designee for service on the council not later than 30 days after the date of the enactment of this Act. Each such member shall promptly notify the Secretary of Transportation of that designation.

(2) DESIGNATION OF SENIOR MARAD OFFICIAL.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Transportation shall designate a senior official within the Maritime Administration to have the responsibility and authority to carry out the terms and conditions set forth under section 1111 of title XI the Merchant Marine Act, 1936, as added by subsection (a). The Secretary shall make the designation of that official known through a public announcement in a national periodical.

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TITLE XIV—MATTERS RELATING TO ALLIES AND OTHER NATIONS

Subtitle A—Defense Burden Sharing

SEC. 1401. DEFENSE BURDENS AND RESPONSIBILITIES.

(a) FINDINGS.—Congress makes the following findings:

(1) Since fiscal year 1985, the budget of the Department of Defense has declined by 34 percent in constant fiscal year 1985 dollars.

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[6] 10 U.S.C. 2491 note.
[7] 10 U.S.C. 2501 note.
[8] Sec. 1355(a) added a new sec. 1111 to the Merchant Marine Act, 1936, relating to the "Authority To Guarantee Obligations for Eligible Export Vessels".
[9] 46 U.S.C. app. 1279d note.

(2) During the past few years, the United States military presence overseas has declined significantly in the following ways:

(A) Since fiscal year 1986, the number of United States military personnel permanently stationed overseas has declined by almost 200,000.

(B) From fiscal year 1989 to fiscal year 1994, spending by the United States to support the stationing of United States military forces overseas will have declined by 36 percent.

(C) Since January 1990, the Department of Defense has announced the closure, reduction, or transfer to standby status of 840 United States military facilities overseas, which is approximately a 50 percent reduction in the number of such facilities.

(3) The United States military presence overseas will continue to decline as a result of actions by the executive branch and as a result of the following provisions of law:

(A) Section 1302 of the National Defense Authorization Act for Fiscal Year 1993, which requires a 40 percent reduction by September 30, 1996, in the number of United States military personnel permanently stationed ashore in overseas locations.

(B) Section 1303 of the National Defense Authorization Act for Fiscal Year 1993, which provides that no more than 100,000 United States military personnel may be permanently stationed ashore in NATO member countries after September 30, 1996.

(C) Section 1301 of the National Defense Authorization Act for Fiscal Year 1993, which reduced the spending proposed by the Department of Defense for overseas basing activities during fiscal year 1993 by $500,000,000.

(D) Sections 913 and 915 of the National Defense Authorization Act for Fiscal Years 1990 and 1991, which directed the President to develop a plan to gradually reduce the United States military force structure in East Asia.

(4) The East Asia Strategy Initiative, which was developed in response to sections 913 and 915 of the National Defense Authorization Act for Fiscal Years 1990 and 1991, has resulted in the withdrawal of 12,000 United States military personnel from Japan and the Republic of Korea since fiscal year 1990.

(5) In response to actions by the executive branch and the Congress, allied countries in which United States military personnel are stationed and alliances in which the United States participates have agreed to reduce the costs incurred by the United States in basing military forces overseas in the following ways:

(A) Under the 1991 Special Measures Agreement between Japan and the United States, Japan will pay by 1995 almost all yen-denominated costs of stationing United States military personnel in Japan.

(B) The Republic of Korea has agreed to pay by 1995 one-third of the won-based costs incurred by the United

States in stationing United States military personnel in the Republic of Korea.

(C) The North Atlantic Treaty Organization (NATO) has agreed that the NATO Infrastructure Program will adapt to support post-Cold War strategy and could pay the annual operation and maintenance costs of facilities in Europe and the United States that would support the reinforcement of Europe by United States military forces and the participation of United States military forces in peacekeeping and conflict prevention operations.

(D) Such allied countries and alliances have agreed to share more fully the responsibilities and burdens of providing for mutual security and stability through steps such as the following:

(i) The Republic of Korea has assumed the leadership role regarding ground combat forces for the defense of the Republic of Korea.

(ii) NATO has adopted the new mission of conducting peacekeeping operations and is, for example, providing land, sea, and air forces for United Nations efforts in the former Yugoslavia.

(iii) The countries of western Europe are contributing substantially to the development of democracy, stability, and open market societies in eastern Europe and the former Soviet Union.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the forward presence of United States military personnel stationed overseas continues to be important to United States security interests;

(2) that forward presence facilitates efforts to pursue United States security interests on a collective basis rather than pursuing them on a far more costly unilateral basis or receding into isolationism;

(3) the bilateral and multilateral arrangements and alliances in which that forward presence plays a part must be further adapted to the security environment of the post-Cold War period;

(4) the cost-sharing percentages for the NATO Infrastructure Program should be reviewed with the aim of reflecting current economic, political, and military realities and thus reducing the United States cost-sharing percentage; and

(5) the amounts obligated to conduct United States overseas basing activities should decline significantly in fiscal year 1994 and in future fiscal years as—

(A) the number of United States military personnel stationed overseas continues to decline; and

(B) the countries in which United States military personnel are stationed and the alliances in which the United States participates assume an increased share of United States overseas basing costs.

(c)[10] REDUCING UNITED STATES OVERSEAS BASING COSTS.—(1) In order to achieve additional savings in overseas basing costs, the President should—

(A) continue with the reductions in United States military presence overseas as required by sections 1302 and 1303 of the National Defense Authorization Act for Fiscal Year 1993; and

(B) intensify efforts to negotiate a more favorable host-nation agreement with each foreign country to which this paragraph applies under paragraph (3)(A).

(2) For purposes of paragraph (1)(B), a more favorable host-nation agreement is an agreement under which such foreign country—

(A) assumes an increased share of the costs of United States military installations in that country, including the costs of—

(i) labor, utilities, and services;

(ii) military construction projects and real property maintenance;

(iii) leasing requirements associated with the United States military presence; and

(iv) actions necessary to meet local environmental standards;

(B) relieves the United States of all tax liability that, with respect to forces located in that country, is incurred by the Armed Forces of the United States under the laws of that country and the laws of the community where those forces are located; and

(C) ensures that goods and services furnished in that country to the Armed Forces of the United States are provided at minimum cost and without imposition of user fees.

(3)(A) Except as provided in subparagraph (B), paragraph (1)(B) applies with respect to—

(i) each country of the North Atlantic Treaty Organization (other than the United States); and

(ii) each other foreign country with which the United States has a bilateral or multilateral defense agreement that provides for the assignment of combat units of the Armed Forces of the United States to permanent duty in that country or the placement of combat equipment of the United States in that country.

(B) Paragraph (1) does not apply with respect to—

(i) a foreign country that receives assistance under section 23 of the Arms Export Control Act (22 U.S.C. 2763) (relating to the foreign military financing program) or under the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.); or

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[10] Sec. 1304(a) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2890) provided the following:

"(a) GOAL FOR ALLIED CONTRIBUTIONS.—In continuing efforts to enter into revised host-nation agreements as described in section 1301(e) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2545) and section 1401(c) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1824), the President shall seek to have European member nations of NATO assume an increased share of the nonpersonnel costs for United States military installations in those nations so that by September 30, 1996, those nations have assumed 37.5 percent of such costs.".

(ii) a foreign country that has agreed to assume, not later than September 30, 1996, at least 75 percent of the nonpersonnel costs of United States military installations in the country.

(d) OBLIGATIONAL LIMITATION.—(1) The total amount appropriated to the Department of Defense for Military Personnel, for Operation and Maintenance, and for military construction (including construction and improvement of military family housing) that is obligated to conduct overseas basing activities during fiscal year 1994 may not exceed $16,915,400,000 (such amount being the amount appropriated for such purposes for fiscal year 1993 reduced by $3,300,000,000), except to the extent provided by the Secretary of Defense under paragraph (3).

(2) For purposes of this subsection, the term "overseas basing activities" means the activities of the Department of Defense for which funds are provided through appropriations for Military Personnel, for Operation and Maintenance (including appropriations for family housing operations), and for military construction (including construction and improvement of military family housing) for the payment of costs for Department of Defense overseas military units and the costs for all dependents who accompany Department of Defense personnel outside the United States.

(3) The Secretary of Defense may increase the amount of the limitation under paragraph (1) by such amount or amounts as the Secretary determines to be necessary in the national interest, but not to exceed a total increase of $582,700,000. The Secretary may not increase the amount of such limitation under the preceding sentence until the Secretary provides notice to Congress of the Secretary's intent to authorize such an increase and a period of 15 days elapses after the day on which such notice is provided.

(e) ALLOCATIONS OF SAVINGS.—Any amounts appropriated to the Department of Defense for fiscal year 1994 for the purposes covered by subsection (d)(1) that are not available to be used for those purposes by reason of the limitation in that subsection shall be allocated by the Secretary of Defense for operation and maintenance and for military construction activities of the Department of Defense at military installations and facilities located inside the United States.

SEC. 1402.[11] BURDEN SHARING CONTRIBUTIONS FROM DESIGNATED COUNTRIES AND REGIONAL ORGANIZATIONS. * * *

Subtitle B—North Atlantic Treaty Organization

SEC. 1411. FINDINGS, SENSE OF CONGRESS, AND REPORT REQUIREMENT CONCERNING NORTH ATLANTIC TREATY ORGANIZATION.

(a) FINDINGS.—The Congress makes the following findings:

(1) The North Atlantic Treaty Organization (NATO) has successfully met the challenge of helping to maintain the peace, security, and freedom of the United States and its NATO allies for more than 40 years.

[11] Sec. 1402 inserted a revised version of section 1045 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1465), into 10 U.S.C. as section 2350j, titled "Burden sharing contributions by designated countries and regional organizations".

(2) The national security interests of the United States have been well served by the process of consultation, coordination, and military cooperation in the NATO framework.

(3) Recent history has witnessed radical changes in the international security environment, including the fall of the Berlin Wall, the unification of Germany, the disbanding of the Warsaw Pact and the disintegration of the Soviet Union.

(4) The military threats which NATO was established to deter have greatly diminished with the end of the Cold War.

(5) The post-Cold War security situation continues to present a wide array of challenges to United States national interests, many of which interests the United States shares with its allies in Europe and Canada.

(6) The international community may prove capable of deterring many threats to the common peace if it can respond decisively to aggression.

(7) The United States must share the responsibilities and the burdens of pursuing international security and stability with other nations.

(8) Several of the newly democratic nations of Central and Eastern Europe and the former Soviet Union have expressed interest in seeking membership in NATO.

(9) Many of the security challenges facing the post-Cold War world would be best handled through coherent multilateral responses.

(10) The United States should never send its military forces into combat unless they are provided with the best opportunity to accomplish their objectives with as little risk as possible.

(11) Military interventions against antagonistic armed forces cannot be conducted safely or effectively on a multilateral basis unless such operations are jointly planned in advance and are executed by units which have trained together and are familiar with each others' operational procedures.

(12) NATO is currently the only organization with the experience, trained staff, and infrastructure necessary to support military cooperation with the major military allies of the United States.

(13) The NATO allies already have volunteered to consider requests from the United Nations and the Conference on Security and Cooperation in Europe for assistance in maintaining the peace.

(14) Justification of the relevance of NATO in the post-Cold War world will depend largely upon the alliance's ability to adapt its mission, area of responsibility, and procedures to the new security environment.

(15) Justification of future United States support for the alliance and for a United States military presence in Europe will depend upon NATO's ability to address those security interests which the United States shares with its allies in Europe and Canada.

(16) The meeting of the NATO heads of state scheduled for January 1994, presents an excellent opportunity for the President to articulate a new, broader security mission for the alliance in the post-Cold War world, one which will enable it to

address a wider array of threats to its members' interests and which will help to share more effectively the burden of international security requirements.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) old threats to the security of the United States and its allies in the North Atlantic Treaty Organization having greatly diminished, and new, more diverse challenges having arisen (including ethno-religious conflict in Central and Eastern Europe and the former Soviet Union and the proliferation of weapons of mass destruction in regions proximate to alliance territory), NATO's mission must be redefined so that it may respond to such challenges to its members' security even when those challenges emanate from beyond the geographic boundaries of its members' territories;

(2) NATO should review its consultative mechanisms in order to maximize its ability to marshal political, diplomatic, social, and economic solidarity, buttressed by credible military capability, and to bring the full weight and scope of its cooperative efforts to bear in addressing the new challenges; and

(3) future United States military involvement in, and contributions to, NATO should be determined in relation to the alliance's success or failure in adapting itself to confronting the challenges of the post-Cold War world.

(c) REPORT.—Not later than 30 days after the date of the enactment of this Act, the President shall transmit a report to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives.[12] The report shall contain recommendations on the following:

(1) The manner in which NATO can formulate and implement a strategy to address the new, more disparate threats to the security of its members.

(2) The manner in which NATO should continue to adapt its consultative process, including efforts to extend that process to the new democracies of Central and Eastern Europe and the former Soviet Union, so as to enhance its political, diplomatic, social, economic, and military efforts to project stability eastward and maximize its capabilities in crisis prevention and crisis management.

(3) The feasibility of having NATO conduct security operations beyond the geographic boundaries of the alliance.

(4) The manner in which NATO should restructure its forces, training and equipment for the new security environment, including with regard to multinational peacekeeping activities.

(5) The desirability of expanding the alliance to include traditionally neutral nations or the new democratic nations of Central and Eastern Europe and the former Soviet Union that wish to join NATO.

[12] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. Sec. 1(a)(5) of that Act provides that references to the Committee on Foreign Affairs shall be treated as referring to the Committee on International Relations. The Committee on National Security subsequently returned to the name "Committee on Armed Services"; see sec. 1067 of Public Law 106–65 (113 Stat. 774).

(6) The proper size and composition of United States forces to be deployed in Europe to assist in the implementation of NATO's new mandate and possible reduction in United States military deployments in Europe in the event of the alliance's failure to adopt a new mandate.

(7) The structure and organization of NATO headquarters, with particular attention to the need to reinvigorate the NATO Military Committee.

(8) The extent to which NATO liaison teams should be assigned to the United Nations and the Conference on Security and Cooperation in Europe so as to facilitate better coordination among these organizations, especially in regard to crisis prevention and crisis management.

(9) The desirability of having additional NATO forces train in North America in a manner supportive of NATO's proposed new strategy.

(10) The structure of NATO's military command, with particular attention to the need to make NATO's Rapid Reaction Force a credible deterrent to regional aggression.

(11) The levels of United States, European, and Canadian defense budgets and their ability to finance forces consistent with the implementation of NATO's new mandate.

SEC. 1412. MODIFICATION OF CERTAIN REPORT REQUIREMENTS.

(a)–(b) * * *

(c) FINDING AND SENSE OF CONGRESS.—(1) The Congress finds that the Secretary of Defense did not submit to Congress in a timely manner the report on allied contributions to the common defense required under section 1003(c) of the National Defense Authorization Act, 1985 (Public Law 98–525; 22 U.S.C. 1928 note), to be submitted not later than April 1, 1993.

(2) It is the sense of Congress that the timely submission of such report to Congress each year is essential to the deliberation by Congress concerning the annual defense program.

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SEC. 1422. REPORT ON EFFECT OF INCREASED USE OF DUAL-USE TECHNOLOGIES ON ABILITY TO CONTROL EXPORTS.

(a) REPORT REQUIREMENT.—Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report assessing what effect the increased use of dual-use and commercial technologies and items by the Department of Defense could have on the ability of the United States to control adequately the export of sensitive dual-use and military technologies and items to nations to whom the receipt of such technologies is contrary to United States national security interests.

(b) EFFECT ON DEFENSE PROGRAMS.—The report required by subsection (a) shall include—

(1) an assessment of the national security implications of any lowering of licensing controls on the export of dual-use items and technology, to include an assessment of the effect such lowering of controls could have on operational United States defense programs and capabilities and planned United States defense programs and capabilities;

(2) a description of the steps the Secretary of Defense intends to take to ensure that any decontrol of dual-use items and technology does not place at risk the technology and defense capability lead that the United States currently enjoys; and

(3) a description of the steps the Department of Defense intends to take to mitigate any possible increase in the proliferation threat resulting from decontrol of dual-use items and technology.

(c) CONSULTATION.—The report required by subsection (a) shall be prepared in consultation with the Director of Central Intelligence.

SEC. 1423. EXTENSION OF LANDMINE EXPORT MORATORIUM.

(a) FINDINGS.—The Congress makes the following findings:

(1) Anti-personnel landmines, which are designed to maim and kill people, have been used indiscriminately in dramatically increasing numbers around the world. Hundreds of thousands of noncombatant civilians, including children, have been the primary victims. Unlike other military weapons, landmines often remain implanted and undiscovered after conflict has ended, causing massive suffering to civilian populations.

(2) Tens of millions of landmines have been strewn in at least 62 countries, often making whole areas uninhabitable. The Department of State estimates that there are more than 10,000,000 landmines in Afghanistan, 9,000,000 in Angola, 4,000,000 in Cambodia, 3,000,000 in Iraqi Kurdistan, and 2,000,000 each in Somalia, Mozambique, and the former Yugoslavia. Hundreds of thousands of landmines were used in conflicts in Central America in the 1980s.

(3) Advanced technologies are being used to manufacture sophisticated mines which can be scattered remotely at a rate of 1,000 per hour. These mines, which are being produced by many industrialized countries, were found in Iraqi arsenals after the Persian Gulf War.

(4) At least 300 types of anti-personnel landmines have been manufactured by at least 44 countries, including the United States. However, the United States is not a major exporter of landmines. During the 10 years from 1983 through 1992, the United States approved 10 licenses for the commercial export of anti-personnel landmines with a total value of $980,000 and the sale under the Foreign Military Sales program of 108,852 anti-personnel landmines.

(5) The United States signed, but has not ratified, the 1980 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed To Be Excessively Injurious or To Have Indiscriminate Effects. Protocol II of the Convention, otherwise known as the Landmine Protocol, prohibits the indiscriminate use of landmines.

(6) When it signed the 1980 Convention, the United States stated: "We believe that the Convention represents a positive step forward in efforts to minimize injury or damage to the civilian population in time of armed conflict. Our signature of the Convention reflects the general willingness of the United

States to adopt practical and reasonable provisions concerning the conduct of military operations, for the purpose of protecting noncombatants.".

(7) The United States also indicated that it had supported procedures to enforce compliance, which were omitted from the Convention's final draft. The United States stated: "The United States strongly supported proposals by other countries during the Conference to include special procedures for dealing with compliance matters, and reserves the right to propose at a later date additional procedures and remedies, should this prove necessary, to deal with such problems.".

(8) The lack of compliance procedures and other weaknesses have significantly undermined the effectiveness of the Landmine Protocol. Since it entered into force on December 2, 1983, the number of civilians maimed and killed by anti-personnel landmines has multiplied.

(9) Since October 23, 1992, when a one-year moratorium on sales, transfers, and exports by the United States of anti-personnel landmines was enacted into law (in section 1365 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 22 U.S.C. 2778 note)), the European Parliament has issued a resolution calling for a five year moratorium on sales, transfers, and exports of anti-personnel landmines and the Government of France has announced that it has ceased all sales, transfers, and exports of anti-personnel landmines.

(10) On December 2, 1993, 10 years will have elapsed since the 1980 Convention entered into force, triggering the right of any party to request a United Nations conference to review the Convention. Amendments to the Landmine Protocol may be considered at that time. A formal request has been made to the United Nations Secretary General for a review conference. With necessary preparations and consultations among governments, a review conference is not expected to be convened before late 1994 or early 1995.

(11) The United States should continue to set an example for other countries in such negotiations by extending the moratorium on sales, transfers, and exports of anti-personnel landmines for an additional three years. A moratorium of that duration would extend the prohibition on the sale, transfer, and export of anti-personnel landmines a sufficient time to take into account the results of a United Nations review conference.

(b) STATEMENT OF POLICY.—

(1) It is the policy of the United States to seek verifiable international agreements prohibiting the sale, transfer or export, and further limiting the manufacture, possession and use, of anti-personnel landmines.

(2) It is the sense of the Congress that—

(A) the President should submit the 1980 Convention on Certain Conventional Weapons to the Senate for ratification; and

(B) the United States should—

(i) participate in a United Nations conference to review the Landmine Protocol; and

(ii) actively seek to negotiate under United Nations auspices a modification of the Landmine Protocol, or another international agreement, to prohibit the sale, transfer, or export of anti-personnel landmines and to further limit the manufacture, possession, and use of anti-personnel landmines.

(c) * * *

(d) DEFINITION.—(1)[13] For purposes of this section, the term "anti-personnel landmine" means any of the following:

(A)[13] Any munition placed under, on, or near the ground or other surface area, or delivered by artillery, rocket, mortar, or similar means or dropped from an aircraft and which is designed to be detonated or exploded by the presence, proximity, or contact of a person.

(B)[13] Any device or material which is designed, constructed, or adapted to kill or injure and which functions unexpectedly when a person disturbs or approaches an apparently harmless object or performs an apparently safe act.

(C)[13] Any manually-emplaced munition or device designed to kill, injure, or damage and which is actuated[14] automatically after a lapse of time.

(2) The term does not include command detonated antipersonnel land mines (such as the M18A1 "Claymore" mine).

Subtitle D—Other Matters

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SEC. 1432.[15] * * * [Repealed—1996]

SEC. 1433.[16] **CONSENT OF CONGRESS TO SERVICE BY RETIRED MEMBERS IN MILITARY FORCES OF NEWLY DEMOCRATIC NATIONS.**

(a) FINDINGS.—The Congress makes the following findings:

(1) It is in the national security interest of the United States to promote democracy throughout the world.

(2) The armed forces of newly democratic nations often lack the democratic traditions that are a hallmark of the Armed Forces of the United States.

(3) The understanding of military roles and missions in a democracy is essential for the development and preservation of democratic forms of government.

(4) The service of retired members of the Armed Forces of the United States in the armed forces of newly democratic nations could lead to a better understanding of military roles and missions in a democracy.

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[13] Sec. 1401 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 488) inserted para. designation "(1)"; redesignated paras. (1), (2), and (3) as subparas. (A), (B), and (C), and added a new para. (2).

[14] Sec. 1401(2) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 488) struck out "by remote control or" after "is actuated".

[15] Sec. 1061(n) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 443) repealed sec. 1432, relating to American diplomatic facilities in Germany.

[16] 10 U.S.C. 1058 note.

(b)[17] CONSENT OF CONGRESS.—(1) Chapter 53 of title 10, United States Code, is amended by adding at the end the following new section: * * *

(c) CONFORMING CROSS REFERENCE.—* * *

(d) EFFECTIVE DATE.—Section 1058 of title 10, United States Code, as added by subsection (a), shall take effect as of January 1, 1993.

SEC. 1434. SEMIANNUAL REPORT ON EFFORTS TO SEEK COMPENSATION FROM GOVERNMENT OF PERU FOR DEATH AND WOUNDING OF CERTAIN UNITED STATES SERVICEMEN.

(a) FINDINGS.—The Congress finds that—

(1) the United States Government has not made adequate efforts to seek the payment of compensation by the Government of Peru for the death and injuries to United States military personnel resulting from the attack by aircraft of the military forces of Peru on April 24, 1992, against a United States Air Force C–130 aircraft operating off the coast of Peru; and

(2) in failing to make such efforts adequately, the United States Government has failed in its obligation to support the servicemen and their families involved in the incident and generally to support members of the Armed Forces carrying out missions on behalf of the United States.

(b) SEMIANNUAL REPORT.—Not later than December 1 and June 1 of each year, the Secretary of Defense shall submit to the Committees on Armed Services and Foreign Affairs of the House of Representatives[18] and the Committees on Armed Services and Foreign Relations of the Senate a report on the efforts made by the Government of the United States during the preceding six-month period to seek the payment of fair and equitable compensation by the Government of Peru (1) to the survivors of Master Sergeant Joseph Beard, Jr., United States Air Force, who was killed in the attack described in subsection (a), and (2) to the other crew members who were wounded in the attack and survived.

(c) TERMINATION OF REPORT REQUIREMENT.—The requirement in subsection (b) shall terminate upon certification by the Secretary of Defense to Congress that the Government of Peru has paid fair and equitable compensation as described in subsection (b).

TITLE XV—INTERNATIONAL PEACEKEEPING AND HUMANITARIAN ACTIVITIES

Subtitle A—Assistance Activities

SEC. 1501. GENERAL AUTHORIZATION OF SUPPORT FOR INTERNATIONAL PEACEKEEPING ACTIVITIES.

(a) AUTHORIZED SUPPORT FOR FISCAL YEAR 1994.—The Secretary of Defense may provide assistance for international peacekeeping activities during fiscal year 1994, in accordance with section 403 of

[17] Sec. 1433(b) added sec. 1058 to 10 U.S.C., relating to "military service of retired members with newly democratic nations: consent of Congress".

[18] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. Sec. 1(a)(5) of that Act provided that references to the Committee on Foreign Affairs shall be treated as referring to the Committee on International Relations. The Committee on National Security subsequently returned to the name "Committee on Armed Services"; see sec. 1067 of Public Law 106–65 (113 Stat. 774).

title 10, United States Code, in an amount not to exceed $300,000,000. Any assistance so provided may be derived from funds appropriated to the Department of Defense for fiscal year 1994 for operation and maintenance or (notwithstanding the second sentence of subsection (b) of that section) from balances in working capital funds.

(b)–(c) * * *

SEC. 1502. REPORT ON MULTINATIONAL PEACEKEEPING AND PEACE ENFORCEMENT.

(a) REPORT REQUIRED.—Not later than April 1, 1994, the President, after seeking the views of the Secretary of State and the Secretary of Defense, shall submit to the committees specified in subsection (c) a report on United States policy on multinational peacekeeping and peace enforcement.

(b) CONTENT OF REPORT.—The report shall contain a comprehensive analysis and discussion of the following matters:

(1) Criteria for participation by the United States in multinational missions through the United Nations, the North Atlantic Treaty Organization, or other regional alliances and international organizations.

(2) Proposals for expanding peacekeeping activities by the North Atlantic Treaty Organization and the North Atlantic Cooperation Council, including multinational operations, multinational training, and multinational doctrine development.

(3) Proposals for establishing regional entities, on an ad hoc basis or a permanent basis, to conduct peacekeeping or peace enforcement operations under a United Nations mandate as an alternative to direct United Nations involvement in such operations.

(4) A summary of progress made by the United States, in consultation with other nations, to develop doctrine for peacekeeping and peace enforcement operations and plans to conduct exercises with other nations for such purposes.

(5) Proposals for criteria for determining whether to commence new peacekeeping missions, including, in the case of any such mission, criteria for determining the threat to international peace to be addressed by the mission, the precise objectives of the mission, the costs of the mission, and the proposed endpoint of the mission.

(6) The principles, criteria, or considerations guiding decisions to place United States forces under foreign command or to decline to put United States forces under foreign command.

(7) Proposals to establish opportunities within the Armed Forces for voluntary assignment to duty in units designated for assignment to multinational peacekeeping and peace enforcement missions.

(8) Proposals to modify the budgetary and financial policies of the United Nations for peacekeeping and peace enforcement missions, including—

(A) proposals regarding the structure and control of budgetary procedures;

(B) proposals regarding United Nations accounting procedures; and

(C) specific proposals—

(i) to establish a revolving capital fund to finance the costs of starting new United Nations operations approved by the Security Council;

(ii) to establish a requirement that United Nations member nations pay one-third of the anticipated first-year costs of a new operation immediately upon Security Council approval of that operation;

(iii) to establish a requirement that United Nations member nations be charged interest penalties on late payment of their assessments for peacekeeping or peace enforcement missions;

(iv) regarding possible sources of international revenue for United Nations peacekeeping and peace enforcement missions;

(v) regarding the need to lower the United States peacekeeping assessment to the same percentage as the United States assessment to the regular United Nations budget; and

(vi) regarding a revision of the current schedule of payments per servicemember assigned to a peacekeeping mission in order to bring payments more in line with costs.

(9) Proposals to establish a small United Nations Rapid Deployment Force under the direction of the United Nations Security Council in order to provide for quick intervention in disputes for the purpose of preventing a larger outbreak of hostilities.

(10) Proposals for reorganization of the United Nations Secretariat to provide improved management of peacekeeping operations, including the establishment of a Department of Peace Operations (DPO) and the transfer of the Operations Division from Field Operations into such a department.

(11) Requirement of congressional approval for participation of United States Armed Forces in multinational peacekeeping and peace enforcement missions, including the applicability of the War Powers Resolution and the United Nations Participation Act.

(12) Proposals that the United States and other United Nations member nations negotiate special agreements under article 43 of the United Nations Charter to provide for those states to make armed forces, assistance, and facilities available to the United Nations Security Council for the purposes stated in article 42 of that charter, not only on an ad hoc basis, but also on a permanent on-call basis for rapid deployment under Security Council authorization.

(13) A proposal that member nations of the United Nations commit to keep equipment specified by the Secretary General of the United Nations available for immediate sale, loan, or donation to the United Nations when required.

(14) A proposal that member nations of the United Nations make airlift and sealift capacity available to the United Nations without charge or at lower than commercial rates.

(15) An evaluation of the current capabilities and future needs of the United Nations for improved command, control,

communications, and intelligence infrastructure, including facilities, equipment, procedures, training, and personnel, and an analysis of United States capabilities and experience in such matters that could be applied or offered directly to the United Nations.

(16) An evaluation of the potential role of the Military Staff Committee of the United Nations Security Council.

(17) Training requirements for foreign military personnel designated to participate in peacekeeping operations, including an assessment of the nation, nations, or organizations that might best provide such training and at what cost.

(18) Any other information that may be useful to inform Congress on matters relating to United States policy and proposals on peacekeeping and peace enforcement missions.

(c) COMMITTEES TO RECEIVE REPORT.—The committees to which the report under this section are to be submitted are—

(1) the Committee on Armed Services and the Committee on Foreign Relations of the Senate; and

(2) the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives.[19]

SEC. 1503. MILITARY-TO-MILITARY CONTACT.

(a) CONTINUATION OF CERTAIN MILITARY-TO-MILITARY PROGRAMS.—Of the amounts authorized to be appropriated pursuant to section 301 for Defense-wide activities, $10,000,000 shall be made available to continue efforts that were initiated by the commander of a United States unified command and approved by the chairman of the Joint Chiefs of Staff for military-to-military contacts and comparable activities that are designed to assist the military forces of other countries in understanding the appropriate role of military forces in a democratic society.

(b) LIMITATION.—Subsection (a) applies only to activities initiated by September 30, 1993, and only in the case of countries with which those activities had been initiated by that date.

SEC. 1504.[20] HUMANITARIAN AND CIVIC ASSISTANCE.

(a) REGULATIONS.—The regulations required to be prescribed under section 401 of title 10, United States Code, shall be prescribed not later than March 1, 1994. In prescribing such regulations, the Secretary of Defense shall consult with the Secretary of State.

(b) LIMITATION ON USE OF FUNDS.—Section 401(c)(2) of title 10, United States Code, is amended by inserting before the period the following: ", except that funds appropriated to the Department of Defense for operation and maintenance (other than funds appropriated pursuant to such paragraph) may be obligated for humanitarian and civic assistance under this section only for incidental costs of carrying out such assistance".

(c) NOTIFICATIONS REGARDING HUMANITARIAN RELIEF.—Any notification provided to the appropriate congressional committees with

[19] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. Sec. 1(a)(5) of that Act provided that references to the Committee on Foreign Affairs shall be treated as referring to the Committee on International Relations.

[20] 10 U.S.C. 401 note.

respect to assistance activities under section 2551 of title 10, United States Code, shall include a detailed description of any items for which transportation is provided that are excess nonlethal supplies of the Department of Defense, including the quantity, acquisition value, and value at the time of the transportation of such items.

(d) REPORT ON HUMANITARIAN ASSISTANCE ACTIVITIES.—(1) The Secretary of Defense shall submit to the appropriate congressional committees a report on the activities planned to be carried out by the Department of Defense during fiscal year 1995 under sections 401, 402, 2547, and 2551 of title 10, United States Code. The report shall include information, developed after consultation with the Secretary of State, on the distribution of excess nonlethal supplies transferred to the Secretary of State during fiscal year 1993 pursuant to section 2547 of that title.

(2) The report shall be submitted at the same time that the President submits the budget for fiscal year 1995 to Congress pursuant to section 1105 of title 31, United States Code.

(e) AUTHORIZATION OF APPROPRIATIONS.—The funds authorized to be appropriated by section 301(18) shall be available to carry out humanitarian and civic assistance activities under sections 401, 402, and 2551 of title 10, United States Code.

(f) APPROPRIATE CONGRESSIONAL COMMITTEES.—In this section, the term "appropriate congressional committees" means—

(1) the Committee on Appropriations, the Committee on Armed Services, and the Committee on Foreign Affairs of the House of Representatives;[21] and

(2) the Committee on Appropriations, the Committee on Armed Services, and the Committee on Foreign Relations of the Senate.

Subtitle B—Policies Regarding Specific Countries

SEC. 1511.[22] SANCTIONS AGAINST SERBIA AND MONTENEGRO.

(a) CODIFICATION OF EXECUTIVE BRANCH SANCTIONS.—The sanctions imposed on Serbia and Montenegro, as in effect on the date

[21] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. Sec. 1(a)(5) of that Act provided that references to the Committee on Foreign Affairs shall be treated as referring to the Committee on International Relations. The Committee on National Security subsequently returned to the name "Committee on Armed Services"; see sec. 1067 of Public Law 106–65 (113 Stat. 774).

[22] 50 U.S.C. 1701 note.

In a memorandum for the Secretary of State on February 16, 1999, the President certified "that the waiver of the application of the prohibition in section 1511(b) of Public Law 103–160 is necessary to achieve a negotiated settlement of the conflict in Bosnia-Herzegovina that is acceptable to the parties, tot he extent that such provision applies to the furnishing of assistance to the Republic of Montenegro." [Presidential Determination No. 99–14; 64 F.R. 9263].

In a memorandum for the Secretary of State on May 30, 1997, the President certified "that the waiver of the application of the prohibition in section 1511(b) of Public Law 103–160 and of the application of 540(a) of [Public Law 104–208] is necessary to achieve a negotiated settlement of the conflict in Bosnia and Herzegovina that is acceptable to the parties, to the extent that such provisions apply to the furnishing of assistance to facilitate destruction of military equipment." [Presidential Determination No. 97–26; 62 F.R. 32015].

In a memorandum for the Secretaries of State, Treasury, and Transportation, the President, on December 27, 1995 (Presidential Determination No. 96–7; 61 F.R. 2887), determined that:

"[T]he waiver or modification of the sanctions of Serbia and Montenegro that were imposed by or pursuant to the directives described in section 1511(a)(1–5) and (7–8) of the Act, in conformity with the provisions of United Nations Security Council Resolutions 1021 and

Continued

of the enactment of this Act, that were imposed by or pursuant to the following directives of the executive branch shall (except as provided under subsections (d) and (e)) remain in effect until changed by law:

(1) Executive Order 12808 of May 30, 1992, as continued in effect on May 25, 1993.

(2) Executive Order 12810 of June 5, 1992.

(3) Executive Order 12831 of January 15, 1993.

(4) Executive Order 12846 of April 25, 1993.

(5) Department of State Public Notice 1427, effective July 11, 1991.

(6) Proclamation 6389 of December 5, 1991 (56 Fed. Register 64467).

(7) Department of Transportation Order 92–5–38 of May 20, 1992.

(8) Federal Aviation Administration action of June 19, 1992 (14 C.F.R. Part 91).

(b) PROHIBITION ON ASSISTANCE.—No funds appropriated or otherwise made available by law may be obligated or expended on behalf of the government of Serbia or the government of Montenegro.

(c) INTERNATIONAL FINANCIAL INSTITUTIONS.—The Secretary of the Treasury shall instruct the United States executive director of

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1022 of November 22, 1995, is necessary to achieve a negotiated settlement of the conflict in Bosnia-Herzegovina that is acceptable to the parties.

"Therefore, I hereby direct the Secretary of the Treasury to take appropriate action to suspend the application of the sanctions imposed on Serbia and Montenegro pursuant to Executive Order No. 12808 of May 30, 1992, Executive Order 12810 of June 5, 1992, Executive Order 12831 of January 15, 1993, and Executive Order 12846 of April 25, 1993, effective upon the transmittal of this determination to the Congress. The property and interests in property previously blocked remain blocked until provision is made to address claims or encumbrances, including the claims of the other successor states of the former Yugoslavia.

"I hereby direct the Secretary of Transportation to take appropriate action to suspend the application of the sanctions imposed pursuant to Department of Transportation Order 92–5–38 of May 20, 1992, Department of Transportation Order 92–6–27 of June 12, 1992, and Special Federal Aviation Regulation No. 66–2 of May 31, 1995 (14 C.F.R. Part 91, 60 Federal Register 28477), effective upon the transmittal of this determination to the Congress.

"I hereby authorize the Secretary of State to take appropriate action to suspend the application of the sanctions imposed pursuant to Department of State Public Notice 1427 of July 11, 1991, at the appropriate time in conformity with the provisions of United Nations Security Council Resolution 1021 of November 22, 1995.

"The national emergency declared in Executive Order No. 12808 and expanded in Executive Order No. 12934 shall continue in effect.".

Sec. 540 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (sec. 101(c) of title I of Public Law 104–208; 110 Stat. 3009), provided the following:

"RESTRICTIONS ON THE TERMINATION OF SANCTIONS AGAINST SERBIA AND MONTENEGRO

"SEC. 540. (a) RESTRICTIONS.—Notwithstanding any other provision of law, no sanction, prohibition, or requirement described in section 1511 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160), with respect to Serbia or Montenegro, may cease to be effective, unless—

"(1) the President first submits to the Congress a certification described in subsection (b); and

"(2) the requirements of section 1511 of that Act are met.

"(b) CERTIFICATION.—A certification described in this subsection is a certification that—

"(1) there is substantial progress toward—

"(A) the realization of a separate identity for Kosova and the right of the people of Kosova to govern themselves; or

"(B) the creation of an international protectorate for Kosova;

"(2) there is substantial improvement in the human rights situation in Kosova;

"(3) international human rights observers are allowed to return to Kosova; and

"(4) the elected government of Kosova is permitted to meet and carry out its legitimate mandate as elected representatives of the people of Kosova.

"(c) WAIVER AUTHORITY.—The President may waive the application in whole or in part, of subsection (a) if the President certifies to the Congress that the President has determined that the waiver is necessary to meet emergency humanitarian needs or to achieve a negotiated settlement of the conflict in Bosnia and Herzegovina that is acceptable to the parties.".

each international financial institution to use the voice and vote of the United States to oppose any assistance from that institution to the government of Serbia or the government of Montenegro, except for basic human needs.

(d) EXCEPTION.—Notwithstanding any other provision of law, the President is authorized and encouraged to exempt from sanctions imposed against Serbia and Montenegro that are described in subsection (a) those United States-supported programs, projects, or activities that involve reform of the electoral process, the development of democratic institutions or democratic political parties, or humanitarian assistance (including refugee care and human rights observation).

(e) WAIVER AUTHORITY.—(1) The President may waive or modify the application, in whole or in part, of any sanction described in subsection (a), the prohibition in subsection (b), or the requirement in subsection (c).

(2) Such a waiver or modification may only be effective upon certification by the President to Congress that the President has determined that the waiver or modification is necessary (A) to meet emergency humanitarian needs, or (B) to achieve a negotiated settlement of the conflict in Bosnia-Herzegovina that is acceptable to the parties.

SEC. 1512.[23] INVOLVEMENT OF ARMED FORCES IN SOMALIA.

(a) SENSE OF CONGRESS REGARDING UNITED STATES POLICY TOWARD SOMALIA.—

(1) Since United States Armed Forces made significant contributions under Operation Restore Hope towards the establishment of a secure environment for humanitarian relief operations and restoration of peace in the region to end the humanitarian disaster that had claimed more than 300,000 lives.

(2) Since the mission of United States forces in support of the United Nations appears to be evolving from the establishment of "a secure environment for humanitarian relief operations," as set out in United Nations Security Council Resolution 794 of December 3, 1992, to one of internal security and nation building.

(b) STATEMENT OF CONGRESSIONAL POLICY.—

(1) CONSULTATION WITH THE CONGRESS.—The President should consult closely with the Congress regarding United States policy with respect to Somalia, including in particular the deployment of United States Armed Forces in that country, whether under United Nations or United States command.

(2) PLANNING.—The United States shall facilitate the assumption of the functions of United States forces by the United Nations.

(3) REPORTING REQUIREMENT.—

(A) The President shall ensure that the goals and objectives supporting deployment of United States forces to Somalia and a description of the mission, command arrangements, size, functions, location, and anticipated duration

[23] 50 U.S.C. 1541 note.

in Somalia of those forces are clearly articulated and provided in a detailed report to the Congress by October 15, 1993.

(B) Such report shall include the status of planning to transfer the function contained in paragraph (2).

(4) CONGRESSIONAL APPROVAL.—Upon reporting under the requirements of paragraph (3) Congress believes the President should by November 15, 1993, seek and receive congressional authorization in order for the deployment of United States forces to Somalia to continue.

TITLE XVI—ARMS CONTROL MATTERS[24]

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TITLE XVII—CHEMICAL AND BIOLOGICAL WEAPONS DEFENSE

SEC. 1701.[25] CONDUCT OF THE CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM.

(a) GENERAL.—The Secretary of Defense shall carry out the chemical and biological defense program of the United States in accordance with the provisions of this section.

(b) MANAGEMENT AND OVERSIGHT.—In carrying out his responsibilities under this section, the Secretary of Defense shall do the following:

(1) Assign responsibility for overall coordination and integration of the chemical and biological warfare defense program and the chemical and biological medical defense program to a single office within the Office of the Secretary of Defense.

(2) Take those actions necessary to ensure close and continuous coordination between (A) the chemical and biological warfare defense program, and (B) the chemical and biological medical defense program.

(3) Exercise oversight over the chemical and biological defense program through the Defense Acquisition Board process.

(c) COORDINATION OF THE PROGRAM.—(1)[26] The Secretary of Defense shall designate the Army as executive agent for the Department of Defense to coordinate and integrate research, development, test, and evaluation, and acquisition, requirements of the military departments for chemical and biological warfare defense programs of the Department of Defense.

(2)[26] The Director of the Defense Advanced Research Projects Agency may conduct a program of basic and applied research and advanced technology development on chemical and biological warfare defense technologies and systems. In conducting such program, the Director shall seek to avoid unnecessary duplication of the activities under the program with chemical and biological warfare defense activities of the military departments and defense agencies and shall coordinate the activities under the program with those of the military departments and defense agencies.

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[24] For text, see *Legislation on Foreign Relations Through 2004*, vol. II.

[25] 50 U.S.C. 1522.

[26] Sec. 228(a) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2460) inserted para. designation "(1)" before "The Secretary" and added para. (2).

(d) FUNDING.—(1) The budget for the Department of Defense for each fiscal year after fiscal year 1994 shall reflect a coordinated and integrated chemical and biological defense program for the Department of Defense.[27]

(2) Funding requests for the program (other than for activities under the program conducted by the Defense Advanced Research Projects Agency under subsection (c)(2))[28] shall be set forth in the budget of the Department of Defense for each fiscal year as a separate account, with a single program element for each of the categories of research, development, test, and evaluation, acquisition, and military construction. Amounts for military construction projects may be set forth in the annual military construction budget. Funds for military construction for the program in the military construction budget shall be set forth separately from other funds for military construction projects. Funding requests for the program may not be included in the budget accounts of the military departments.

(3)[29] The program conducted by the Defense Advanced Research Projects Agency under subsection (c)(2) shall be set forth as a separate program element in the budget of that agency.

(4)[29] All funding requirements for the chemical and biological defense program shall be reviewed by the Secretary of the Army as executive agent pursuant to subsection (c).

(e) MANAGEMENT REVIEW AND REPORT.—(1) The Secretary of Defense shall conduct a review of the management structure of the Department of Defense chemical and biological warfare defense program, including—

(A) research, development, test, and evaluation;
(B) procurement;
(C) doctrine development;
(D) policy;
(E) training;
(F) development of requirements;
(G) readiness; and
(H) risk assessment.

(2) Not later than May 1, 1994, the Secretary shall submit to Congress a report that describes the details of measures being taken to improve joint coordination and oversight of the program and ensure a coherent and effective approach to its management.

SEC. 1702.[30] CONSOLIDATION OF CHEMICAL AND BIOLOGICAL DEFENSE TRAINING ACTIVITIES.

The Secretary of Defense shall consolidate all chemical and biological warfare defense training activities of the Department of Defense at the United States Army Chemical School.

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[27] Sec. 228(b)(1) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2460) struck out "military departments" and inserted in lieu thereof "Department of Defense".

[28] Sec. 228(b)(2) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2460) inserted "(other than for activities under the program conducted by the Defense Advanced Research Projects Agency under subsection (c)(2))" after "requests for the program".

[29] Sec. 228(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2460) redesignated para. (3) as para. (4) and inserted a new para. (3).

[30] 50 U.S.C. 1522 note.

SEC. 1703.[31] ANNUAL REPORT ON CHEMICAL AND BIOLOGICAL WARFARE DEFENSE.

(a) REPORT REQUIRED.—The Secretary of Defense shall include in the annual report of the Secretary under section 113(c) of title 10, United States Code, a report on chemical and biological warfare defense. The report shall assess—

(1) the overall readiness of the Armed Forces to fight in a chemical-biological warfare environment and shall describe steps taken and planned to be taken to improve such readiness; and

(2) requirements for the chemical and biological warfare defense program, including requirements for training, detection, and protective equipment, for medical prophylaxis, and for treatment of casualties resulting from use of chemical or biological weapons.

(b) MATTERS TO BE INCLUDED.—The report shall include information on the following:

(1) The quantities, characteristics, and capabilities of fielded chemical and biological defense equipment to meet wartime and peacetime requirements for support of the Armed Forces, including individual protective items.

(2) The status of research and development programs, and acquisition programs, for required improvements in chemical and biological defense equipment and medical treatment, including an assessment of the ability of the Department of Defense and the industrial base to meet those requirements.

(3) Measures taken to ensure the integration of requirements for chemical and biological defense equipment and material among the Armed Forces.

(4) The status of nuclear, biological, and chemical (NBC) warfare defense training and readiness among the Armed Forces and measures being taken to include realistic nuclear, biological, and chemical warfare simulations in war games, battle simulations, and training exercises.

(5) Measures taken to improve overall management and coordination of the chemical and biological defense program.

(6) Problems encountered in the chemical and biological warfare defense program during the past year and recommended solutions to those problems for which additional resources or actions by the Congress are required.

(7) A description of the chemical warfare defense preparations that have been and are being undertaken by the Department of Defense to address needs which may arise under article X of the Chemical Weapons Convention.

(8) A summary of other preparations undertaken by the Department of Defense and the On-Site Inspection Agency to prepare for and to assist in the implementation of the convention, including activities such as training for inspectors, preparation of defense installations for inspections under the convention using the Defense Treaty Inspection Readiness Program, provision of chemical weapons detection equipment, and assistance

[31] 50 U.S.C. 1523.

in the safe transportation, storage, and destruction of chemical weapons in other signatory nations to the convention.

(9)[32] A description of any program involving the testing of biological or chemical agents on human subjects that was carried out by the Department of Defense during the period covered by the report, together with—

(A) a detailed justification for the testing;

(B) a detailed explanation of the purposes of the testing;

(C) a description of each chemical or biological agent tested; and

(D) the Secretary's certification that informed consent to the testing was obtained from each human subject in advance of the testing on that subject.

SEC. 1704.[33] SENSE OF CONGRESS CONCERNING FEDERAL EMERGENCY PLANNING FOR RESPONSE TO TERRORIST THREATS.

It is the sense of Congress that the President should strengthen Federal interagency emergency planning by the Federal Emergency Management Agency and other appropriate Federal, State, and local agencies for development of a capability for early detection and warning of and response to—

(1) potential terrorist use of chemical or biological agents or weapons; and

(2) emergencies or natural disasters involving industrial chemicals or the widespread outbreak of disease.

SEC. 1705.[34] AGREEMENTS TO PROVIDE SUPPORT TO VACCINATION PROGRAMS OF DEPARTMENT OF HEALTH AND HUMAN SERVICES.

(a) AGREEMENTS AUTHORIZED.—The Secretary of Defense may enter into agreements with the Secretary of Health and Human Services to provide support for vaccination programs of the Secretary of Health and Human Services in the United States through use of the excess peacetime biological weapons defense capability of the Department of Defense.

(b) REPORT.—Not later than February 1, 1994, the Secretary of Defense shall submit to the congressional defense committees a report on the feasibility of providing Department of Defense support for vaccination programs under subsection (a) and shall identify resource requirements that are not within the Department's capability.

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DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

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TITLE XXXV—PANAMA CANAL COMMISSION[35]

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[32] Sec. 1078(f) of Public Law 105–85 (111 Stat. 1915) added para. (9).
[33] 50 U.S.C. 1522 note.
[34] 50 U.S.C. 1524.
[35] For text, see *Legislation on Foreign Relations Through 2004*, vol. II.

q. Department of Defense Appropriations Act, 1994

Partial text of Public Law 103–139 [H.R. 3116], 107 Stat. 1418, approved November 11, 1993

AN ACT Making appropriations for the Department of Defense for the fiscal year ending September 30, 1994, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1994, for military functions administered by the Department of Defense, and for other purposes, namely:

* * * * * * *

TITLE VIII

GENERAL PROVISIONS

* * * * * * *

SEC. 8033. During the current fiscal year and thereafter, of the funds appropriated, reimbursable expenses incurred by the Department of Defense on behalf of the Soviet Union or its successor entities in monitoring United States implementation of the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range or Shorter-Range Missiles ("INF Treaty"), concluded December 8, 1987, may be treated as orders received and obligation authority for the applicable appropriation, account, or fund increased accordingly. Likewise, any reimbursements received for such costs may be credited to the same appropriation, account, or fund to which the expenses were charged: *Provided,* That reimbursements which are not received within one hundred and eighty days after submission of an appropriate request for payment shall be subject to interest at the current rate established pursuant to section 2(b)(1)(B) of the Export-Import Bank Act of 1945 (59 Stat. 526). Interest shall begin to accrue on the one hundred and eighty-first day following submission of an appropriate request for payment: *Provided further,* That funds appropriated in this Act may be used to reimburse United States military personnel for reasonable costs of subsistence, at rates to be determined by the Secretary of Defense, incurred while accompanying Soviet Inspection Team members or inspection team members of the successor entities of the Soviet Union engaged in activities related to the INF Treaty: *Provided further,* That this provision includes only the in-country period (referred to in the INF Treaty) and is effective whether such duty is performed at, near, or away from an individual's permanent duty station.

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SEC. 8056.[1] During the current fiscal year and thereafter, there is established, under the direction and control of the Attorney General, the National Drug Intelligence Center, whose mission it shall be to coordinate and consolidate drug intelligence from all national security and law enforcement agencies, and produce information regarding the structure, membership, finances, communications, and activities of drug trafficking organizations: *Provided,* That funding for the operation of the National Drug Intelligence Center, including personnel costs associated therewith, shall be provided from the funds appropriated to the Department of Defense.

* * * * * * *

SEC. 8099. (a) FINDINGS.—The Congress finds that—

(1) the United States Government has not made adequate efforts to seek the payment of compensation by the government of Peru for the death and injuries to United States military personnel resulting from the attack by aircraft of the military forces of Peru on April 24, 1992, against a United States Air Force C–130 aircraft operating off the coast of Peru; and

(2) in failing to make such efforts adequately, the United States Government has failed in its obligation to support the servicemen and their families involved in the incident and generally to support members of the Armed Forces carrying out missions on behalf of the United States.

(b) SEMIANNUAL REPORT.—The Secretary of Defense shall submit a report to Congress on December 1 and June 1 of each year on the efforts made by the Government of the United States during the preceding six-month period to seek the payment of fair and equitable compensation by the Government of Peru (1) to the survivors of Master Sergeant Joseph Beard, Jr., United States Air Force, who was killed in the attack described in subsection (a), and (2) to the other crew members who were wounded in the attack and survived.

(c) TERMINATION OF REPORT REQUIREMENT.—The requirement in subsection (b) shall terminate upon certification by the Secretary of Defense to Congress that the Government of Peru has paid fair and equitable compensation as described in subsection (b).

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This Act may be cited as the "Department of Defense Appropriations Act, 1994".

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[1] 21 U.S.C. 873 note. Sec. 104(e) of the Intelligence Authorization Act for Fiscal Year 1998 (Public Law 105–107; 111 Stat. 2250) provided the following:

"(e) NATIONAL DRUG INTELLIGENCE CENTER.—

"(1) IN GENERAL.—Of the amount authorized to be appropriated in subsection (a) [$121,580,000], the amount of $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, 1999, and funds provided for procurement purposes shall remain available until September 30, 2000.

"(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 the activities of the Center.

"(3) LIMITATION.—Amounts available for the Center may not be used in contravention of the provisions 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 Center.".

r. National Defense Authorization Act for Fiscal Year 1993

Partial text of Public Law 102–484 [H.R. 5006], 106 Stat. 2315, approved October 23, 1992; amended by Public Law 103–160 [National Defense Authorization Act for Fiscal Year 1994; H.R. 2401], 107 Stat. 1547, approved November 30, 1993; Public Law 103–337 [National Defense Authorization Act for Fiscal Year 1995; S. 2182], 108 Stat. 2663, approved October 5, 1994; Public Law 104–99 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996; H.R. 1868], enacted by reference in section 301 of H.R. 2880, 101 Stat. 26, approved January 26, 1996, enacted again as Public Law 104–107 [H.R. 1868], 110 Stat. 704, approved February 12, 1996; Public Law 104–106 [National Defense Authorization Act for Fiscal Year 1996; S. 1124], 110 Stat. 186, approved February 10, 1996; Public Law 104–201 [National Defense Authorization Act for Fiscal Year 1997; H.R. 3230], 110 Stat. 2422, approved September 23, 1996; Public Law 104–208 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997; sec. 101(c) of title I of the Omnibus Consolidated Appropriations Act, 1997; H.R. 3610], 110 Stat. 3009, approved September 30, 1996; Public Law 105–85 [National Defense Authorization Act for Fiscal Year 1998; H.R. 1119], 111 Stat. 1629, approved November 18, 1997; Public Law 106–65 [National Defense Authorization Act for Fiscal Year 2000; S. 1059], 113 Stat. 512, October 5, 1999; Public Law 106–113 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000; H.R. 3422, enacted by reference in sec. 1000(a)(2) of Consolidated Appropriations Act for Fiscal Year 2000; H.R. 3194], 113 Stat. 1501, approved November 29, 1999; Public Law 106–398 [Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001; H.R. 4205], 114 Stat. 1654, approved October 30, 2000; Public Law 107–107 [National Defense Authorization Act for Fiscal Year 2002; S. 1438], 115 Stat. 1012, approved December 28, 2001; Public Law 107–115 [Kenneth M. Ludden Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002; H.R. 2506], 115 Stat. 2118, approved January 10, 2002; Public Law 107–228 [Foreign Relations Authorization Act, Fiscal Year 2003; H.R. 1646], 116 Stat. 1350, approved September 30, 2002; and by Public Law 107–314 [Bob Stump National Defense Authorization Act for Fiscal Year 2003; H.R. 4546], 116 Stat. 2458, approved December 2, 2002

AN ACT To authorize appropriations for fiscal year 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, to provide for defense conversion, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Defense Authorization Act for Fiscal Year 1993".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into four divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

(4) Division D—Defense Conversion, Reinvestment, and Transition Assistance

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows: * * *

SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.

For purposes of this Act, the term "congressional defense committees" means the Committees on Armed Services [1] and the Committees on Appropriations of the Senate and House of Representatives.

SEC. 4. GENERAL LIMITATION.

Notwithstanding any other provision of this Act, the total amount authorized to be appropriated for fiscal year 1993 under the provisions of this Act is $274,121,787,000, of which the total amount authorized to be appropriated for fiscal year 1993 under the provisions of—

(1) division A is $253,654,264,000;
(2) division B is $8,389,833,000; and
(3) division C is $12,077,690,000.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Subtitle A—Funding Authorizations

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SEC. 107. CHEMICAL DEMILITARIZATION PROGRAM.

Funds are hereby authorized to be appropriated for fiscal year 1993 for the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), in the amount of $515,300,000.

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Subtitle B—Army Programs

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SEC. 114. ARMORED VEHICLE UPGRADES.

Section 21 of the Arms Export Control Act (22 U.S.C. 2761) is amended by adding at the end the following: [2]

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Subtitle G—Chemical Demilitarization Program

SEC. 171.[3] CHANGE IN CHEMICAL WEAPONS STOCKPILE ELIMINATION DEADLINE. * * *

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[1] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. The Committee on National Security subsequently returned to the name "Committee on Armed Services"; see sec. 1067 of Public Law 106–65 (113 Stat. 774).

[2] For text, see *Legislation on Foreign Relations Through 2004*, vol. I–A.

[3] Sec. 171 amended sec. 1412(b)(5) of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521(b)(5)).

SEC. 178.[4] SENSE OF CONGRESS CONCERNING INTERNATIONAL CONSULTATION AND EXCHANGE PROGRAM.

It is the sense of Congress that the Secretary of Defense, in consultation with the Secretary of State, should establish, with other nations that are anticipated to be signatories to an international agreement or treaty banning chemical weapons, a program under which consultation and exchange concerning chemical weapons disposal technology could be enhanced. Such a program shall be used to facilitate the exchange of technical information and advice concerning the disposal of chemical weapons among signatory nations and to further the development of safer, more cost-effective methods for the disposal of chemical weapons.

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TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorizations

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SEC. 205. ENDOWMENT FOR DEFENSE INDUSTRIAL COOPERATION.

(a) REPORT.—The Secretary of Defense shall prepare a report on the benefits and limitations of establishing a United States-Israel Endowment for Defense Industrial Cooperation with the following objectives:

(1) To promote and support joint defense industrial activities of mutual benefit to the United States and Israel.

(2) To promote and support joint commercialization of defense technologies of mutual benefit to the United States and Israel.

(3) To strengthen a mutually beneficial defense trade program between the United States and Israel.

(b) DEADLINE.—The Secretary shall submit to Congress the report required by subsection (a) no later than August 1, 1993.

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TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorizations of Appropriations

SEC. 301. OPERATION AND MAINTENANCE FUNDING.

Funds are hereby authorized to be appropriated for fiscal year 1993 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance in amounts as follows:

* * * * * * *

(14) For Drug Interdiction and Counter-Drug Activities, Defense, $1,263,400,000.

* * * * * * *

(17) For Humanitarian Assistance, $25,000,000.

* * * * * * *

[4] 50 U.S.C. 1521 note.

SEC. 304. HUMANITARIAN ASSISTANCE.

(a) PURPOSE.—(1) Funds appropriated pursuant to the authorization in section 301(17) shall be available for the purposes of section 2551 of title 10, United States Code, as added by subsection (c), including the transportation of humanitarian relief for the people of Afghanistan and Cambodia.

(2) Of the funds authorized to be appropriated for fiscal year 1993 pursuant to section 301(17) for such purpose, not more than $3,000,000 shall be available for distribution of humanitarian relief supplies to displaced persons or refugees who are noncombatants, including those affiliated with the Cambodian non-Communist resistance, at or near the border between Thailand and Cambodia.

(b) AUTHORITY TO TRANSFER FUNDS.—The Secretary of Defense may transfer, pursuant to section 2551(b) of such title, not more than $3,000,000 of the funds referred to in subsection (a)(1).

(c)[5] CODIFICATION OF AUTHORITY AND ADMINISTRATIVE PROVISIONS.—(1) Subchapter II of chapter 152 of title 10, United States Code, is amended by adding at the end the following new section: * * *

(d)[6] LAWS COVERED BY INITIAL REPORTS.—For purposes of subsection (e) of section 2551 of title 10, United States Code, as added by subsection (c), section 304 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1333), and the humanitarian relief laws referred to in subsection (f)(4) of section 304 of that Act (as in effect on the day before the date of the enactment of this Act) shall be considered as provisions of law that authorized appropriations for humanitarian assistance to be available for the purposes of section 2551 of title 10, United States Code.

(e) REPEAL OF SUPERSEDED REPORTING REQUIREMENT.—Section 304 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1333) is amended by striking out subsection (f).

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Subtitle C—Environmental Provisions

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SEC. 324. OVERSEAS ENVIRONMENTAL RESTORATION.

(a) SENSE OF CONGRESS.—It is the sense of the Congress that in carrying out environmental restoration activities at military installations outside the United States, the President should seek to obtain an equitable division of the costs of environmental restoration with the nation in which the installation is located.

(b) REPORT.—The Secretary of Defense shall include in each Report on Allied Contributions to the Common Defense prepared under section 1003 of Public Law 98–525 (22 U.S.C. 1928) information, in classified and unclassified form, describing the efforts undertaken and the progress made by the President in carrying out subsection (a) during the period covered by the report.

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[5] This subsection added sec. 2551 to 10 U.S.C., relating to humanitarian assistance.
[6] 10 U.S.C. 2551 note.

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

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Subtitle C—Other Matters

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SEC. 842.[7] PURCHASE OF ANGOLAN PETROLEUM PRODUCTS.

The prohibition in section 316 of the National Defense Authorization Act for Fiscal Year 1987 (100 Stat. 3855; 10 U.S.C. 2304 note) shall cease to be effective on the date on which the President certifies to Congress that free, fair, and democratic elections have taken place in Angola.

SEC. 843.[8] AUTHORITY FOR THE DEPARTMENT OF DEFENSE TO SHARE EQUITABLY THE COSTS OF CLAIMS UNDER INTERNATIONAL ARMAMENTS COOPERATION PROGRAMS. * * *

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

Subtitle A—Roles and Missions

SEC. 901.[9] REPORT OF THE CHAIRMAN OF THE JOINT CHIEFS OF STAFF ON ROLES AND MISSIONS OF THE ARMED FORCES.

(a) REPORT.—(1) The Secretary of Defense shall transmit to Congress a copy of the first report relating to the roles and missions of the Armed Forces that is submitted to the Secretary by the Chairman of the Joint Chiefs of Staff under section 153(b) of title 10, United States Code, after January 1, 1992.

(2) The Secretary shall transmit the report, together with his views on the report, within 30 days after receiving the report.

(b) ADDITIONAL MATTERS.—In addition to the matters required under such section 153(b), the Chairman shall include in the report referred to in subsection (a) the Chairman's comments and recommendations regarding the following matters:

(1) Reassessing the roles and missions assigned to each of the Armed Forces (under the Key West agreement of 1947 and subsequent actions by the various Secretaries of Defense and the Congress) in light of the new national security environment resulting from the end of the Cold War.

(2) The extent to which the efficiency of the Armed Forces in carrying out their roles and missions can be enhanced by—

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[7] 10 U.S.C. 2304 note. The President made such a determination on July 19, 1993 (Presidential Determination No. 93–32; 58 F.R. 40309; July 28, 1993).

[8] Subsec. (a) of this section amended sec. 27(c) of the Arms Export Control Act (22 U.S.C. 2767(c)). See *Legislation on Foreign Relations Through 2004*, vol. I–A. Subsec. (b) amended 10 U.S.C. 2350a and 2350d. See beginning at page 650. Subsec. (c), repealed by sec. 1318 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2902), formerly read as follows:

"(c) TERMINATION.—On the date which is two years after the date of the enactment of this Act, subsections (a) and (b) shall cease to be in effect, and section 27(c) of the Arms Export Control Act and section 2350a of title 10, United States Code, shall read as if such subsections had not been enacted.".

[9] 10 U.S.C. 153 note.

(A) the elimination or reduction of duplication in the capabilities of the military departments and Defense Agencies without an undue diminution in their effectiveness; and

(B) the consolidation or streamlining of organizations and activities within the military departments and Defense Agencies.

(3) Changes in the operational tempo of forces stationed in the continental United States and changes in deployment patterns and operational tempo of forces deployed outside the United States.

(4) Changes in the readiness status of units based upon time-phased force deployment plans.

(5) Transfers of functions from the active components of the Armed Forces to the reserve components of the Armed Forces.

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TITLE X—GENERAL PROVISIONS

Subtitle A—Financial Matters

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SEC. 1003. TREATMENT OF CERTAIN "M" ACCOUNT OBLIGATIONS.

(a) LIMITATION.—The Secretary of Defense may not reobligate any sum in a merged (or so-called "M") account of the Department of Defense until the Secretary has identified an equal sum under section 1406 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1680) that can be canceled.

(b) REQUIREMENT FOR RECIPROCAL CANCELLATION.—Whenever the Secretary of Defense reobligates funds from a merged (or so-called "M") account of the Department of Defense, the Secretary shall at the same time cancel with the Treasury of the United States a sum in the same amount as the reobligation from a merged account of the Department of Defense.

(c) MONTHLY REPORTS.—The Secretary of Defense shall submit to the congressional defense committees a monthly report, for each month beginning after the date of the enactment of this Act through September 1993, on the amount of funds reobligated during the month from merged accounts of the Department of Defense and the amount of funds canceled during the month from such accounts. Each report shall be submitted not later than the 21st day of the month after the month covered by the report.

(d) NOTICE-AND-WAIT.—(1) Whenever the Secretary of Defense proposes to reobligate from a merged (or so-called "M") account of the Department of Defense any sum in an amount greater than $10,000,000, the reobligation may not be made until—

(A) the Secretary notifies Congress of the amount to be reobligated, the source of the funds to be reobligated, and the purpose the funds will be reobligated for; and

(B) a period of 30 days passes after the notice is received.

(2) The limitation in paragraph (1) applies to reobligations for a single purpose in a sum greater than the amount specified in that

paragraph. Such a reobligation may not be divided into several smaller sums to avoid such limitation.

(e) DURATION OF LIMITATIONS.—Subsections (a) and (b) shall cease to apply when all audits and cancellations of balances required by section 1406 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1680) have been completed.

SEC. 1004.[10] ADDITIONAL TRANSITION AUTHORITY REGARDING CLOSING APPROPRIATION ACCOUNTS. * * *

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Subtitle E—Counter-Drug Activities

SEC. 1041.[11] ADDITIONAL SUPPORT FOR COUNTER-DRUG ACTIVITIES. * * *

SEC. 1042.[12] MAINTENANCE AND OPERATION OF EQUIPMENT. * * *

SEC. 1043. COUNTER-DRUG DETECTION AND MONITORING SYSTEMS PLAN.

(a) REQUIREMENTS OF DETECTION AND MONITORING SYSTEMS.—The Secretary of Defense shall establish requirements for counter-drug detection and monitoring systems to be used by the Department of Defense in the performance of its mission under section 124(a) of title 10, United States Code, as lead agency of the Federal Government for the detection and monitoring of the transit of illegal drugs into the United States. Such requirements shall be designed—

(1) to minimize unnecessary redundancy between counter-drug detection and monitoring systems;

(2) to grant priority to assets and technologies of the Department of Defense that are already in existence or that would require little additional development to be available for use in the performance of such mission;

(3) to promote commonality and interoperability between counter-drug detection and monitoring systems in a cost-effective manner; and

(4) to maximize the potential of using counter-drug detection and monitoring systems for other defense missions whenever practicable.

(b) EVALUATION OF SYSTEMS.—The Secretary of Defense shall identify and evaluate existing and proposed counter-drug detection and monitoring systems in light of the requirements established under subsection (a). In carrying out such evaluation, the Secretary shall—

(1) assess the capabilities, strengths, and weaknesses of counter-drug detection and monitoring systems; and

(2) determine the optimal and most cost-effective combination of use of counter-drug detection and monitoring systems to carry out activities relating to the reconnaissance, detection, and monitoring of drug traffic.

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[10] Sec. 1004 amended sec. 1405(b) of the National Defense Authorization Act for Fiscal Year 1991 (31 U.S.C. 1551 note).

[11] Sec. 1041, in part, amended sec. 1004 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 374 note).

[12] Sec. 1042 amended 10 U.S.C 374.

(c) SYSTEMS PLAN.—Based on the results of the evaluation under subsection (b), the Secretary of Defense shall prepare a plan for the development, acquisition, and use of improved counter-drug detection and monitoring systems by the Armed Forces. In developing the plan, the Secretary shall also make every effort to determine which counter-drug detection and monitoring systems should be eliminated from the counter-drug program based on the results of such evaluation. The plan shall include an estimate by the Secretary of the full cost to implement the plan, including the cost to develop, procure, operate, and maintain equipment used in counter-drug detection and monitoring activities performed under the plan and training and personnel costs associated with such activities.

(d) REPORT.—Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the requirements established under subsection (a) and the results of the evaluation conducted under subsection (b). The report shall include the plan prepared under subsection (c).

(e) LIMITATION ON OBLIGATION OF FUNDS.—(1) Except as provided in paragraph (2), none of the funds appropriated or otherwise made available for the Department of Defense for fiscal year 1993 pursuant to an authorization of appropriations in this Act may be obligated or expended for the procurement or upgrading of a counter-drug detection and monitoring system, for research and development with respect to such a system, or for the lease or rental of such a system until after the date on which the Secretary of Defense submits to Congress the report required under subsection (d).

(2) Paragraph (1) shall not prohibit obligations or expenditures of funds for—

(A) any procurement, upgrading, research and development, or lease of a counter-drug detection and monitoring system that is necessary to carry out the evaluation required under subsection (b); or

(B) the operation and maintenance of counter-drug detection and monitoring systems used by the Department of Defense as of the date of the enactment of this Act.

(f) DEFINITION.—For purposes of this section, the term "counter-drug detection and monitoring systems" means land-, air-, and sea-based detection and monitoring systems suitable for use by the Department of Defense in the performance of its mission—

(1) under section 124(a) of title 10, United States Code, as lead agency of the Federal Government for the detection and monitoring of the aerial and maritime transit of illegal drugs into the United States; and

(2) to provide support to law enforcement agencies in the detection, monitoring, and communication of the movement of traffic at, near, and outside the geographic boundaries of the United States.

SEC. 1044.[13] EXTENSION OF AUTHORITY TO TRANSFER EXCESS PERSONAL PROPERTY. * * *

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[13] Sec. 1044 amended sec. 1208(c) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 10 U.S.C. 372 note).

TITLE XIII—MATTERS RELATING TO ALLIES AND OTHER NATIONS

Subtitle A—Burdensharing

SEC. 1301. OVERSEAS BASING ACTIVITIES.

(a) FUNDING REDUCTIONS.—(1)(A) The total amount appropriated to the Department of Defense for operation and maintenance and for military construction (including NATO Infrastructure) that is obligated to conduct overseas basing activities during fiscal year 1993 may not exceed the amount equal to the baseline for fiscal year 1993 reduced by $500,000,000.

(B) For purposes of subparagraph (A), the baseline for fiscal year 1993 is the sum of the amounts of the overseas funding estimates specified for such year for Operation and Maintenance; Family Housing, Operations; Family Housing, Construction; and Military Construction (including NATO Infrastructure) set forth on page 8 of the report of the Department of Defense dated January 1992, and entitled "Amended FY 1992/FY 1993 Biennial Budget Estimates for Defense Overseas Funding and Dependent Overseas Funding".

(2) It is the sense of Congress that the amounts obligated to conduct overseas basing activities should decline significantly in fiscal years 1994, 1995, and 1996 as—

(A) the number of United States military personnel stationed overseas is reduced in conformance with the provisions of section 1302 and the amendment made by section 1303; and

(B) the countries to which subsection (e)(1) and (e)(2) apply assume an increased share of the costs of United States military installations in those countries.

(b) DEFINITION.—In this section, the term "overseas basing activities" means the activities of the Department of Defense for which funds are provided through appropriations for operation and maintenance, including appropriations for family housing operations, and for military construction (including family housing construction and NATO Infrastructure) for the payment of costs for Department of Defense overseas military units and the costs for all dependents who accompany Department of Defense personnel outside the United States.

(c) OFFSETS.—Reductions for purposes of subsection (a) in obligations of appropriated funds for overseas basing activities may be offset by either or a combination of the following:

(1) Increase in the level of host-nation support due to agreements reached under subsection (e) or otherwise.

(2) Accelerated withdrawal of United States forces or equipment under the provisions of section 1302 and the amendment made by section 1303.

(d) ALLOCATIONS OF SAVINGS.—The savings realized as a result of the reductions for purposes of subsection (a) will be allocated for operation and maintenance and military construction activities of the Department of Defense at military installations and facilities located inside the United States.

(e)[14] DEFENSE BURDENSHARING AGREEMENTS FOR INCREASED HOST NATION SUPPORT.—(1) In order to achieve additional savings in fiscal year 1994 and in future fiscal years, the President should enter into a revised host-nation agreement with each foreign country described in paragraph (3)(A).

(2) For purposes of paragraph (1), a revised host-nation agreement is an agreement under which such foreign country, on or before September 30, 1994—

(A) assumes an increased share of the costs of United States military installations in that country, including the costs of—

(i) labor, utilities, and services;

(ii) military construction projects and real property maintenance;

(iii) leasing requirements associated with United States military presence; and

(iv) actions necessary to meet local environmental standards;

(B) relieves the Armed Forces of the United States of all tax liability that, with respect to forces located in such country, is incurred by the Armed Forces under the laws of that country and the laws of the community where those forces are located; and

(C) ensures that goods and services furnished in that country to the Armed Forces of the United States are provided at minimum cost and without imposition of user fees.

(3)(A) Except as provided in subparagraph (B), paragraph (1) applies with respect to—

(i) each country of the North Atlantic Treaty Organization (other than the United States); and

(ii) each other foreign country with which the United States has a bilateral or multilateral defense agreement that provides for the assignment of combat units of the Armed Forces of the United States to permanent duty in that country or the placement of combat equipment of the United States in that country.

(B) Paragraph (1) does not apply with respect to—

(i) a foreign country that receives assistance under section 23 of the Arms Export Control Act (22 U.S.C. 2673) (relating to the foreign military financing program) or under the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.); or

(ii) a foreign country that has agreed to assume, not later than September 30, 1996, at least 75 percent of the non-personnel costs of United States military installations in that country.

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[14] Sec. 1304(a) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2890) provided the following:

"(a) GOAL FOR ALLIED CONTRIBUTIONS.—In continuing efforts to enter into revised host-nation agreements as described in section 1301(e) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2545) and section 1401(c) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1824), the President shall seek to have European member nations of NATO assume an increased share of the nonpersonnel costs for United States military installations in those nations so that by September 30, 1996, those nations have assumed 37.5 percent of such costs.".

SEC. 1302.[15] **OVERSEAS MILITARY END STRENGTH.** * * * [Repealed—1994]

SEC. 1303.[16] **REDUCTION IN THE AUTHORIZED END STRENGTH FOR MILITARY PERSONNEL IN EUROPE.** * * * [Repealed—1994]

SEC. 1304.[17] **REPORTS ON OVERSEAS BASING.**

(a) ANNUAL REPORT.—The Secretary of Defense shall, not later than March 31 of each year through 1997, submit to the Committees on Armed Services[18] of the Senate and House of Representatives, either separately or as part of another relevant report, a report that specifies—

(1) the stationing and basing plan by installation[19] for United States military forces outside the United States;

(2) the status of closures of United States military installations located outside the United States;

(3)[20] both—

(A) the status of negotiations, if any, between the United States and the host government as to (i) United States claims for compensation for the fair market value of the improvements made by the United States at each installation referred to in paragraph (2), and (ii) any claims of the host government for damages or restoration of the installation; and

(B) the representative of the United States in any such negotiations;

(4) the potential savings to the United States resulting from such closures;

(5)[21] the cost to the United States of any improvements made at each installation referred to in paragraph (2) and the

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[15] Formerly at 10 U.S.C. 113 note. Sec. 1312(c) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2894) repealed sec. 1302. That section also enacted a new section at 10 U.S.C. 123b, relating to "Forces Stationed Abroad; Limitation on Number", effective fiscal year 1996. See page 601.

Sec. 1302 previously read as follows:

"SEC. 1302. OVERSEAS MILITARY END STRENGTH.

"(a) REDUCTION IN UNITED STATES FORCE LEVELS ABROAD.—On and after September 30, 1996, no appropriated funds may be used to support an end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in nations outside the United States at any level in excess of 60 percent of the end strength level of such members on September 30, 1992.

"(b) EXCEPTIONS.—(1) Subsection (a) shall not apply in the event of a declaration of war or an armed attack on any member nation of the North Atlantic Treaty Organization, Japan, the Republic of Korea, or any other ally of the United States.

"(2) The President may waive the operation of subsection (a) if the President declares an emergency and immediately notifies Congress.".

[16] Sec. 1303(c) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2890) repealed sec. 1303, which had amended sec. 1002(c)(1) of the National Defense Authorization Act, 1985 (22 U.S.C. 1928 note), effective October 1, 1995, to set U.S. military personnel levels in Europe at 100,000. Sec. 1303 of Public Law 103–337 further amended sec. 1002(c)(1) the 1985 Act.

[17] 10 U.S.C. 113 note.

[18] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. The Committee on National Security subsequently returned to the name "Committee on Armed Services"; see sec. 1067 of Public Law 106–65 (113 Stat. 774).

[19] Sec. 2924(a)(1) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1931) inserted "by installation".

[20] Sec. 2924(a)(2) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1931) struck out para. (3), which read "(3) the schedule for the negotiation of such closures;", and inserted the para. (3) as shown.

[21] Sec. 2924(a)(4) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1931) struck out para. (5), which read: "(5) the potential amount of receipts from residual value negotiations; and", and inserted new paras. (5) and (6).

fair market value of such improvements, expressed in constant dollars based on the date of completion of the improvements;

(6)[21] in each case in which negotiations between the United States and a host government have resulted in an agreement for the payment to the United States by the host government of the value of improvements to an installation made by the United States, the amount of such payment, the form of such payment, and the expected date of such payment; and

(7)[22] efforts and progress toward achieving host nation offsets under section 1301(e) and reduced end strength levels under section 1302.

(b) REPORT ON BUDGET IMPLICATIONS OF OVERSEAS BASING AGREEMENTS.—Whenever the Secretary of Defense enters into a basing agreement between the United States and a foreign country with respect to United States military forces outside the United States, the Secretary of Defense shall, in advance of the signing of the agreement, submit to the congressional defense committees a report on the Federal budget implications of the agreement.

SEC. 1305.[23] BURDENSHARING CONTRIBUTIONS BY KUWAIT. * * *

Subtitle B—Cooperative Agreements and Other Matters Concerning Allies

SEC. 1311.[24] COOPERATIVE MILITARY AIRLIFT AGREEMENTS. * * *

SEC. 1312.[25] COOPERATIVE AGREEMENTS WITH ALLIES. * * *

SEC. 1313.[26] AUTHORITY FOR GOVERNMENT OF OMAN TO RECEIVE EXCESS DEFENSE ARTICLES. * * *

SEC. 1314. REPORT ON POSSIBLE REVISIONS TO THE NORTH ATLANTIC TREATY.

(a) FINDINGS.—The Congress finds that—

(1) when the North Atlantic Treaty was signed in 1949, the clear military threat to the security of Western Europe was the Soviet Union and its allies in Eastern Europe;

(2) since 1949 it has been clearly understood by the people of the Western World that the primary mission of NATO was to deter an attack from the Soviet Bloc;

(3) the dramatic changes in Europe since the fall of the Berlin Wall in 1989, and the subsequent dissolution of the Warsaw Pact and the Soviet Union have fundamentally changed the security situation in Europe;

(4) one of the consequences of the breakdown of 40 years of Communist rule in Eastern Europe and the former Soviet Union has been ethnic conflict throughout the region, particularly in the Balkans and the Republics of the former Soviet Union;

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[22] Sec. 2924(a)(3) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1931) redesignated para. (6) as para. (7).

[23] Sec. 1305 amended sec. 1045 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1465); see 10 USC 2350j.

[24] Sec. 1311 amended 10 U.S.C. 2350c.

[25] Sec. 1312(a) amended 10 U.S.C. 2341, relating to the authority to acquire logistic support, supplies, and services for elements of the armed forces deployed outside the United States. Sec. 1312 (b) amend 10 U.S.C. 2347, relating to limiting liabilities that may be obligated or accrued by the United States during hostilities involving U.S. armed forces overseas.

[26] Sec. 1313 amended sec. 516(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(a)); see *Legislation on Foreign Relations Through 2004*, vol. I–A.

(5) those fundamental changes in the security threats facing NATO member nations have caused confusion concerning the mission of NATO in the post-cold war world and the role of NATO military forces outside of the NATO Theater, particularly in the former Soviet Union;

(6) if NATO is to continue to be relevant to the security interests of Western Europe and North America through the 1990's and beyond, the alliance's mission must be recrafted in order to enable it to address common transatlantic security concerns, including those beyond NATO's geographic boundaries; and

(7) a fundamental review of the North Atlantic Treaty is necessary, in light of the new security situation in Europe.

(b) REPORT.—Not later than April 1, 1993, the President shall submit to Congress a report on the North Atlantic Treaty of 1949. The report shall include—

(1) a detailed analysis of the forseeable threats to the security of NATO member nations;

(2) a determination whether the North Atlantic Treaty of 1949 should be revised to meet the future challenges to peace and security; and

(3) the extent to which the NATO charter permits the use of NATO forces for peacekeeping purposes, given the steadily increased use of military forces for such purposes, and the range of missions that should be considered for such peacekeeping to protect the interests of member nations

Subtitle C—Matters Relating to the Former Soviet Union and Eastern Europe

SEC. 1321.[27] NUCLEAR WEAPONS REDUCTION.

(a) FINDINGS.—The Congress makes the following findings:

(1) On February 1, 1992, the President of the United States and the President of the Russian Federation agreed in a Joint Statement that "Russia and the United States do not regard each other as potential adversaries" and stated further that, "We will work to remove any remnants of cold war hostility, including taking steps to reduce our strategic arsenals".

(2) In the Treaty on the Non-Proliferation of Nuclear Weapons, in exchange for the non-nuclear-weapon states agreeing not to seek a nuclear weapons capability nor to assist other non-nuclear-weapon states in doing so, the United States agreed to seek the complete elimination of all nuclear weapons worldwide, as declared in the preamble to the Treaty, which states that it is a goal of the parties to the Treaty to "facilitate the cessation of the manufacture of nuclear weapons, the liquidation of all their existing stockpiles, and the elimination from national arsenals of nuclear weapons and the means of their delivery" as well as in Article VI of the Treaty, which states that "each of the parties to the Treaty undertakes to

[27] 22 U.S.C. 5901 note.

pursue negotiations in good faith on effective measures relating to the cessation of the nuclear arms race at an early date and to nuclear disarmament".

(3) Carrying out a policy of seeking further significant and continuous reductions in the nuclear arsenals of all countries, besides reducing the likelihood of the proliferation of nuclear weapons and increasing the likelihood of a successful extension and possible strengthening of the Treaty on the Non-Proliferation of Nuclear Weapons in 1995, when the Treaty is scheduled for review and possible extension, has additional benefits to the national security of the United States, including—

(A) a reduced risk of accidental enablement and launch of a nuclear weapon, and

(B) a defense cost savings which could be reallocated for deficit reduction or other important national needs.

(4) The Strategic Arms Reduction Talks (START) Treaty and the agreement by the President of the United States and the President of the Russian Federation on June 17, 1992, to reduce the strategic nuclear arsenals of each country to a level between 3,000 and 3,500 weapons are commendable intermediate stages in the process of achieving the policy goals described in paragraphs (1) and (2).

(5) The current international era of cooperation provides greater opportunities for achieving worldwide reduction and control of nuclear weapons and material than any time since the emergence of nuclear weapons 50 years ago.

(6) It is in the security interests of both the United States and the world community for the President and the Congress to begin the process of reducing the number of nuclear weapons in every country through multilateral agreements and other appropriate means.

(7) In a 1991 study, a committee of the National Academy of Sciences concluded that: "The appropriate new levels of nuclear weapons cannot be specified at this time, but it seems reasonable to the committee that U.S. strategic forces could in time be reduced to 1,000–2,000 nuclear warheads, provided that such a multilateral agreement included appropriate levels and verification measures for the other nations that possess nuclear weapons. This step would require successful implementation of our proposed post-START U.S.-Soviet reductions, related confidence-building measures in all the countries involved, and multilateral security cooperation in areas such as conventional force deployments and planning.".

(b) UNITED STATES POLICY.—It shall be the goal of the United States—

(1) to encourage and facilitate the denuclearization of Ukraine, Byelarus, and Kazakhstan, as agreed upon in the Lisbon ministerial meeting of May 23, 1992;

(2) to rapidly complete and submit for ratification by the United States the treaty incorporating the agreement of June 17, 1992, between the United States and the Russian Federation to reduce the number of strategic nuclear weapons in each country's arsenal to a level between 3,000 and 3,500;

(3) to facilitate the ability of the Russian Federation, Ukraine, Byelarus, and Kazakhstan to implement agreed mutual reductions under the START Treaty, and under the Joint Understanding of June 16–17, 1992 between the United States and the Russian Federation, on an accelerated timetable, so that all such reductions can be completed by the year 2000;

(4) to build on the agreement reached in the Joint Understanding of June 16–17, 1992, by entering into multilateral negotiations with the Russian Federation, the United Kingdom, France, and the People's Republic of China, and, at an appropriate point in that process, enter into negotiations with other nuclear armed states in order to reach subsequent stage-by-stage agreements to achieve further reductions in the number of nuclear weapons in all countries;

(5) to continue and extend cooperative discussions with the appropriate authorities of the former Soviet military on means to maintain and improve secure command and control over nuclear forces;

(6) in consultation with other member countries of the North Atlantic Treaty Organization and other allies, to initiate discussions to bring tactical nuclear weapons into the arms control process; and

(7) to ensure that the United States assistance to securely transport and store, and ultimately dismantle, former Soviet nuclear weapons and missiles for such weapons is being properly and effectively utilized.

(c) ANNUAL REPORT.—By February 1 of each year, the President shall submit to the Congress a report on—

(1) the actions that the United States has taken, and the actions the United States plans to take during the next 12 months, to achieve each of the goals set forth in paragraphs (1) through (6) of subsection (b); and

(2) the actions that have been taken by the Russian Federation, by other former Soviet republics, and by other countries to achieve those goals.

Each such report shall be submitted in unclassified form, with a classified appendix if necessary.

SEC. 1322.[28] VOLUNTEERS INVESTING IN PEACE AND SECURITY (VIPS) PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—(1) Part II of subtitle A of title 10, United States Code, is amended by adding at the end the following new chapter: * * *

(b)[29] REIMBURSEMENT OF OTHER AGENCIES.—The Secretary of Defense shall reimburse other departments and agencies for all costs, direct or indirect, of participation in the program established under chapter 89 of title 10, United States Code, as added by subsection (a).

(c)[29] STUDY TO DETERMINE PROGRAM NEED AND AVAILABILITY OF VOLUNTEERS.—The Secretary of Defense shall conduct a study to assess the need for the program under chapter 89 of title 10,

[28] This subsection added new secs. 1801–1805 to 10 U.S.C. The sections were subsequently repealed by sec. 1061(a)(1) of Public Law 104–106 (110 Stat. 442).

[29] 10 U.S.C. 1801 note.

United States Code, as added by subsection (a), and the availability of volunteers to participate in that program. The Secretary shall—

(1) in consultation with the Secretary of State, conduct a survey, of a scope considered necessary by the Secretary, to determine what technical skills may be required within the independent states of the former Soviet Union and the degree of need for these skills;

(2) determine the potential availability of former service members who are qualified in the required technical skills in a manner and of a duration considered necessary by the Secretary; and

(3) maintain a registry of the skills and former service members who volunteer to participate during the study required in paragraphs (1) and (2).

(d)[29] EFFECTIVE DATE.—Chapter 89 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 1992.

Subtitle D—Matters Relating to the Middle East and Persian Gulf Region

SEC. 1331. REPORT ON THE UNITED STATES STRATEGIC POSTURE IN THE MIDDLE EAST AND PERSIAN GULF REGION.

(a) REQUIREMENT FOR REPORT.—Not later than February 1, 1993, the Secretary of Defense, together with the Secretary of State and the Director for Central Intelligence, shall submit to Congress a report on the United States strategic posture in the Middle East and Persian Gulf region.

(b) CONTENT OF REPORT.—The report shall include an assessment of the following matters:

(1) The adequacy of United States power projection forces, strategic lift, forward deployed forces, prepositioned materiel, and force sustainability capabilities for protecting United States strategic interests in the Middle East and the Persian Gulf region in order to ensure the security needs of Israel, Egypt, and Persian Gulf states friendly to the United States.

(2) United States policy, plans, and programs for ensuring Israel's military and technological superiority over potential threats.

(3) United States capabilities for assisting Israel in a military emergency and the adequacy of United States military assistance and technology transfer for ensuring that Israel has the capability to deter war and to defend its territory with minimal risk and loss of life.

(4) The state of strategic cooperation between the United States and Israel, including—

(A) a thorough assessment of options for prepositioning in Israel appropriate defense articles for use by the United States in the region; and

(B) an assessment of United States policies, plans, and programs for ensuring that maximum advantage is taken of Israel's strategic location and Israel's ability to provide unique options regarding military technologies and production.

(5) The adequacy of United States power projection forces, military assistance, arms transfers, and cooperation arrangements for addressing Egypt's security arrangements to deter outside threats and to participate in regional security efforts with the United States and other nations.

(6) The adequacy of United States power projection forces, military assistance, and arms transfers for addressing the security requirements of the Gulf Cooperation Council States.

(7) The adequacy of the capabilities of the United States and countries friendly to the United States for deterring and defending against long-range missile threats and the use of weapons of mass destruction in the Middle East and the Persian Gulf region.

(c) INTELLIGENCE ASSESSMENT.—As part of the report submitted pursuant to subsection (a), the Secretary of Defense shall provide a military threat assessment for the Middle East and Persian Gulf region. The intelligence assessment shall include a description of—

(1) the overall military threat to United States strategic interests in the Persian Gulf region;

(2) the overall military threat to Israel and the military threats to Israel from individual countries, including an assessment of the Arab-Israeli military balance and a discussion of the changes taking place in that balance;

(3) the military threats to Egypt;

(4) the military threats to the Gulf Cooperation Council States; and

(5) the threats to United States interests and to regional States friendly to the United States that result from the proliferation of long-range missiles and weapons of mass destruction.

(d) FORM OF REPORT.—The report may be submitted in classified and unclassified forms.

SEC. 1332.[30] PROHIBITION ON CONTRACTING WITH ENTITIES THAT COMPLY WITH THE SECONDARY ARAB BOYCOTT OF ISRAEL. * * *

Subtitle E—International Peacekeeping Activities

SEC. 1341. UNITED NATIONS PEACEKEEPING AND ENFORCEMENT REPORT.

(a) REPORT REQUESTED.—Not later than the date on which the President submits to Congress the budget for fiscal year 1994 under section 1105 of title 31, United States Code, the President shall transmit to Congress a report on the proposals of the Secretary General of the United Nations contained in his report to the Security Council entitled "Preventive Diplomacy, Peacemaking and Peacekeeping", dated June 19, 1992.

(b) CONTENT OF PRESIDENT'S REPORT.—The President's report shall contain a comprehensive analysis and discussion of the proposals of the Secretary General, including, in particular, the following:

[30] Sec. 1332(a) added a new 10 U.S.C. 2410i, relating to the secondary boycott of Israel.

(1) The proposal that contributions for peacekeeping and related enforcement activities be funded out of the National Defense function of the budget rather than the "Contributions to International Peacekeeping Activities" account of the Department of State.

(2) The assignment of responsibilities within the Executive branch if such contributions are funded, in whole or in part, out of the National Defense function.

(3) The proposal that the United States and other member states of the United Nations negotiate special agreements under Article 43 of the United Nations Charter to provide for those states to make armed forces, assistance, and facilities available to the Security Council of the United Nations for the purposes stated in Article 42 of that Charter, not only on an ad hoc basis but on a permanent on-call basis for rapid deployment under Security Council authorization.

(4) The proposal that member states of the United Nations commit to keep equipment specified by the Secretary General available for immediate sale, loan, or donation to the United Nations when required.

(5) The proposal that member states of the United Nations make airlift and sealift capacity available to the United Nations free of cost or at lower than commercial rates.

(6) Such other information as may be necessary to inform Congress on matters relating to the Secretary General's proposals.

SEC. 1342.[31] SUPPORT FOR PEACEKEEPING ACTIVITIES.

(a) FINDINGS.—The Congress makes the following findings:

(1) International peacekeeping activities contribute to the national interests of the United States in maintaining global stability and order.

(2) International peacekeeping activities take many forms and include observer missions, ceasefire monitoring, human rights monitoring, refugee and humanitarian assistance, monitoring and conducting elections, monitoring of police in the demobilization of former combatants, and reforming judicial and other civil and administrative systems of government.

(3) International peacekeeping activities traditionally involve the presence of military troops, police forces, and, in recent years, civilian experts in transportation, logistics, medicine, electoral systems, human rights, land tenure, other economic and social issues, and other areas of expertise.

(4) International peacekeeping activities serve both the foreign policy interests and defense policy interests of the United States.

(5) The normal budget process of authorizing and appropriating funds a year in advance and reprogramming such funds is insufficient to satisfy the need for funds for peacekeeping efforts arising from an unanticipated crisis.

(6) Greater flexibility is needed to ensure the timely availability of funding to provide for peacekeeping activities.

[31] 10 U.S.C. 403 note.

(b) AUTHORIZED SUPPORT FOR FISCAL YEAR 1993.—(1) Subject to paragraph (2), the Secretary may provide assistance for international peacekeeping activities during fiscal year 1993 in an amount not to exceed $300,000,000 in accordance with section 403 of title 10, United States Code, as added by subsection (c). Notwithstanding subsection (b) of that section, the assistance so provided may be derived from funds appropriated to the Department of Defense for fiscal year 1993 for operation and maintenance or from balances in working capital accounts.

(2) No amount may be obligated pursuant to paragraph (1) unless the expenditure of such amount has been determined by the Director of the Office of Management and Budget to be counted against the defense category of the discretionary spending limits for fiscal year 1993 (as defined in section 601(a)(2) of the Congressional Budget Act of 1974) for purposes of part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

(c)[32] AUTHORIZATION.—(1) Chapter 20 of title 10, United States Code, is amended by adding at the end the following new section: * * *

Subtitle F—Overseas Operation and Maintenance Activities

SEC. 1351.[33] PROHIBITION ON PAYMENT OF SEVERANCE PAY TO CERTAIN FOREIGN NATIONALS IN THE PHILIPPINES.

(a) PROHIBITION.—Funds available to the Department of Defense may not be used to pay severance pay to a foreign national employed by the Department of Defense in the Republic of the Philippines if the discontinuation of the employment of the foreign national is the result of the termination of basing rights of the United States military in the Republic of the Philippines.

(b) PROHIBITION ON ALLOWANCE OF CERTAIN SEVERANCE PAY AS CONTRACT COSTS.—Funds available to the Department of Defense may not be used to pay the costs of severance pay paid by a contractor to a foreign national employed by the contractor under a defense service contract in the Philippines if the discontinuation of the employment of the foreign national is the result of the termination of basing rights of the United States military in the Philippines.

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Subtitle G—Other Matters

SEC. 1363.[34] REPORT ON PROLIFERATION OF MILITARY-BASED SATELLITES.

(a) REPORT.—The Secretary of Defense shall submit to Congress a report on the foreign development of, acquisition of, or access to

[32] Sec. 1342(c)(1) added a new 10 U.S.C. 403. Sec. 403 was subsequently repealed by sec. 1061(g)(1) of Public Law 104–106 (110 Stat. 443).

[33] 10 U.S.C. 1592 note.

[34] Sec. 220(d) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2697) provided the following:

"(d) REPORT.—The Secretary shall submit to Congress the report required by section 1363 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2560).".

Sec. 1506 of the same Act (108 Stat. 2919), furthermore, provided the following:

satellites with capabilities for military applications and the implications of such development, acquisition, or access for the United States. The report shall include the following:

(1) A description of the current military satellite capability of Third World countries and other countries, including the projected threat posed by such capabilities to the United States in the future.

(2) A description of the current and planned efforts by the United States to develop an antisatellite capability to counter the global proliferation of satellites with capability for military applications.

(3) A review of other measures that the United States might use to counter the proliferation of such satellites.

(4) An assessment of the likelihood of any Third World country capable of ownership or control of satellites with capabilities for military applications of being able to obtain or develop an effective antisatellite capability.

(5) An assessment of the military requirement of the United States for antisatellite capabilities and a description of the existing management structure in the Government for the coordination of United States antisatellite programs.

(b) SUBMISSION OF REPORT.—The report required by subsection (a) shall be submitted not later than 180 days after the date of the enactment of this Act. The report shall be submitted in unclassified form and, as necessary, in classified form.

SEC. 1364.[35] REPORT ON INTERNATIONAL MINE CLEARING EFFORTS IN REFUGEE SITUATIONS.

(a) FINDINGS.—The Congress finds that—

"SEC. 1506. RESTRICTION RELATING TO SUBMISSION OF REPORT ON PROLIFERATION OF FOREIGN MILITARY SATELLITES.

"None of the funds available to the Department of Defense may be expended for travel by the Assistant Secretary of Defense for International Security Policy until the Secretary of Defense submits to Congress the report required by section 1363 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2560).".

Sec. 211 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1584) provided the following:

"SEC. 211. KINETIC ENERGY ANTISATELLITE PROGRAM.

"(a) CONVERSION OF PROGRAM.—The Secretary of Defense shall convert the Kinetic Energy Antisatellite (KE–ASAT) Program to a tactical antisatellite technologies program.

"(b) LEVEL FUNDING.—Of the amounts authorized to be appropriated in this title, $10,000,000 shall be available for fiscal year 1994 for engineering development under the program.

"(c) DEVELOPMENT OF MOST CRITICAL TECHNOLOGIES.—The amount referred to in subsection (b) shall be available for engineering development of the most critical antisatellite technologies.

"(d) LIMITATION PENDING SUBMISSION OF REPORT.—No funds appropriated to the Department of Defense for fiscal year 1994 may be obligated for the Kinetic Energy Antisatellite (KE–ASAT) program until the Secretary of Defense submits to Congress the report required by section 1363 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2560) that contains, in addition to the matter required by such section, the Secretary's certification that there is a requirement for an antisatellite program.".

[35] Executive Order 12851 of June 11, 1993 (58 F.R. 33181) provided for the administration of proliferation sanctions, Middle East arms control, and related congressional reporting requirements, including the following:

"**Sec. 2.** *Missile Proliferation Sanctions.* * * *

"(c) *Reporting Requirements.* The authority and duties vested in me to make certain reports to the Congress as provided in section 1097 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 and section 1364 of the National Defense Authorization Act for Fiscal Year 1993 are delegated to the Secretary of State.

"(d) *Coordination Among Agencies.* The Secretaries designated in this section shall exercise all functions delegated to them by this section in consultation with the Secretary of State, the Secretary of Defense, the Secretary of the Treasury, the Secretary of Commerce, the Director

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(1) an estimated 10–20 million mines are scattered across Cambodia, Afghanistan, Somalia, Angola, and other countries which have experienced conflict; and

(2) refugee repatriation and other humanitarian programs are being seriously hampered by the widespread use of anti-personnel mines in regional conflicts and civil wars.

(b) REPORT.—(1) The President shall provide a report on international mine clearing efforts in situations involving the repatriation and resettlement of refugees and displaced persons.

(2) The report shall include the following:

(A) An assessment of mine clearing needs in countries to which refugees and displaced persons are now returning, or are likely to return within the near future, including Cambodia, Angola, Afghanistan, Somalia and Mozambique, and an assessment of current international efforts to meet the mine clearing needs in the countries covered by the report.

(B) An analysis of the specific types of mines in the individual countries assessed and the availability of technology and assets within the international community for their removal.

(C) An assessment of what additional technologies and assets would be required to complete, expedite or reduce the costs of mine clearing efforts.

(D) An evaluation of the availability of technologies and assets within the United States Government which, if called upon, could be employed to augment or complete mine clearing efforts in the countries covered by the report.

(E) An evaluation of the desirability, feasibility and potential cost of United States assistance on either a unilateral or multilateral basis in such mine clearing operations.

(3) The report shall be submitted to the Congress not later than 180 days after the date of the enactment of this Act.

SEC. 1365.[36] LANDMINE EXPORT MORATORIUM.

(a) FINDINGS.—The Congress makes the following findings:

(1) Anti-personnel landmines, which are specifically designed to maim and kill people, have been used indiscriminately in dramatically increasing numbers, primarily in insurgencies in poor developing countries. Noncombatant civilians, including tens of thousands of children, have been the primary victims.

(2) Unlike other military weapons, landmines often remain implanted and undiscovered after conflict has ended, causing untold suffering to civilian populations. In Afghanistan, Cambodia, Laos, Vietnam, and Angola, tens of millions of

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of the Arms Control and Disarmament Agency, and other departments and agencies as appropriate, utilizing the appropriate interagency groups prior to any determination to exercise prohibition authority delegated hereby.".

This Executive order superceded a memorandum of the President of June 25, 1991, delegating authority regarding missile technology proliferation (56 F.R. 31041; July 8, 1991).

[36] 22 U.S.C. 2778 note. Effective November 25, 1992, the Department of State suspended "all licenses, approvals, sales or transfers of landmines specifically designed for anti-personnel use, regardless of method of delivery", and furthermore, "all existing authorizations for the sale, export, or transfer of such defense articles are revoked until further notice" pursuant to this section and to secs. 2, 38, and 42 of the AECA [Department of State Public Notice 1727; November 25, 1992; 57 F.R. 55614].

See also sec. 1423 of Public Law 103–160.

unexploded landmines have rendered whole areas uninhabitable. In Afghanistan, an estimated hundreds of thousands of people have been maimed and killed by landmines during the 14-year civil war. In Cambodia, more than 20,000 civilians have lost limbs and another 60 are being maimed each month from landmines.

(3) Over 35 countries are known to manufacture landmines, including the United States. However, the United States is not a major exporter of landmines. During the past ten years the Department of State has approved ten licenses for the commercial export of anti-personnel landmines valued at $980,000, and during the past five years the Department of Defense has approved the sale of 13,156 anti-personnel landmines valued at $841,145.

(4) The United States signed, but has not ratified, the 1981 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed To Be Excessively Injurious or To Have Indiscriminate Effects. The Convention prohibits the indiscriminate use of landmines.

(5) When it signed the Convention, the United States stated: "We believe that the Convention represents a positive step forward in efforts to minimize injury or damage to the civilian population in time of armed conflict. Our signature of the Convention reflects the general willingness of the United States to adopt practical and reasonable provisions concerning the conduct of military operations, for the purpose of protecting noncombatants.".

(6) The President should submit the Convention to the Senate for its advice and consent to ratification, and the President should actively negotiate under United Nations auspices or other auspices an international agreement, or a modification of the Convention, to prohibit the sale, transfer or export of anti-personnel landmines. Such an agreement or modification would be an appropriate response to the end of the Cold War and the promotion of arms control agreements to reduce the indiscriminate killing and maiming of civilians.

(7) The United States should set an example for other countries in such negotiations, by implementing a one-year moratorium on the sale, transfer or export of anti-personnel landmines.

(b) STATEMENT OF POLICY.—(1) It shall be the policy of the United States to seek verifiable international agreements prohibiting the sale, transfer, or export, and further limiting the use, production, possession, and deployment of anti-personnel landmines.

(2) It is the sense of the Congress that the President should actively seek to negotiate under United Nations auspices or other auspices an international agreement, or a modification of the Convention, to prohibit the sale, transfer, or export of anti-personnel landmines.

(c) MORATORIUM ON TRANSFERS OF ANTI-PERSONNEL LANDMINES ABROAD.—During the 16-year period beginning on October 23, 1992—[37]

(1) no sale may be made or financed, no transfer may be made, and no license for export may be issued, under the Arms Export Control Act, with respect to any anti-personnel landmine; and

(2) no assistance may be provided under the Foreign Assistance Act of 1961, with respect to the provision of any anti-personnel landmine.

(d)[38] DEFINITION.—For purposes of this section, the term "anti-personnel landmine" means—

(1) any munition placed under, on, or near the ground or other surface area, or delivered by artillery, rocket, mortar, or similar means or dropped from an aircraft and which is designed to be detonated or exploded by the presence, proximity, or contact of a person;

(2) any device or material which is designed, constructed, or adapted to kill or injure and which functions unexpectedly when a person disturbs or approaches an apparently harmless object or performs an apparently safe act;

(3) any manually-emplaced munition or device designed to kill, injure, or damage and which is actuated by remote control or automatically after a lapse of time.

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[37] Sec. 1423(c) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1832) struck out "For a period of one year beginning on the date of the enactment of this Act" and inserted in lieu thereof "During the four-year period beginning on October 23, 1992".

Sec. 558 of Public Law 104–107 (110 Stat. 743) struck out "During the four-year period beginning on October 23, 1992—" and inserted in lieu thereof "During the five-year period beginning on October 23, 1992—". Sec. 556 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (sec. 101(c) of title I of the Omnibus Consolidated Appropriations Act, 1997; Public Law 104–208; 110 Stat. 3009), struck out "During the five-year period beginning on October 23, 1992" and inserted in lieu thereof "During the eight-year period beginning on October 23, 1992". That section also provided the following:

"LANDMINES

"SEC. 556. Notwithstanding any other provision of law, demining equipment available to the Agency for International Development and the Department of State and used in support of the clearing of landmines and unexploded ordnance for humanitarian purposes may be disposed of on a grant basis in foreign countries, subject to such terms and conditions as the President may prescribe: *Provided,* * * *".

Sec. 553 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (H.R. 3422, enacted by reference in sec. 1000(a)(2) of Public Law 106–113; 113 Stat. 1535), struck out "During the five-year period beginning on October 23, 1992" and inserted in lieu thereof "During the 11-year period beginning on October 23, 1992". This amendment is understood to strike and replace language amended by Public Law 104–208, which extended the period to eight years.

Sec. 548 of the Kenneth M. Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107–115; 115 Stat. 2156), struck out "During the 11-year period beginning on October 23, 1992" and inserted in lieu thereof "During the 16-year period beginning on October 23, 1992".

[38] Sec. 1182(c)(3) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1772) struck out "(e) DEFINITION.—" and inserted in lieu thereof "(d) DEFINITION.—".

TITLE XIV—DEMILITARIZATION OF THE FORMER SOVIET UNION

Subtitle A—Short Title

SEC. 1401.[39] SHORT TITLE.

This title may be cited as the "Former Soviet Union Demilitarization Act of 1992".

Subtitle B—Findings and Program Authority

SEC. 1411.[40] DEMILITARIZATION OF THE INDEPENDENT STATES OF THE FORMER SOVIET UNION.

The Congress finds that it is in the national security interest of the United States—

(1) to facilitate, on a priority basis—

(A) the transportation, storage, safeguarding, and destruction of nuclear and other weapons of the independent states of the former Soviet Union, including the safe and secure storage of fissile materials, dismantlement of missiles and launchers, and the elimination of chemical and biological weapons capabilities;

(B) the prevention of proliferation of weapons of mass destruction and their components and destabilizing conventional weapons of the independent states of the former Soviet Union, and the establishment of verifiable safeguards against the proliferation of such weapons;

(C) the prevention of diversion of weapons-related scientific expertise of the former Soviet Union to terrorist groups or third countries; and

(D) other efforts designed to reduce the military threat from the former Soviet Union;

(2) to support the demilitarization of the massive defense-related industry and equipment of the independent states of the former Soviet Union and conversion of such industry and equipment to civilian purposes and uses; and

(3) to expand military-to-military contacts between the United States and the independent states of the former Soviet Union.

SEC. 1412.[41] AUTHORITY FOR PROGRAMS TO FACILITATE DEMILITARIZATION.

(a) IN GENERAL.—Notwithstanding any other provision of law, the President is authorized,[42] in accordance with this title, to establish and conduct programs described in subsection (b) to assist

[39] 22 U.S.C. 5901 note.

[40] 22 U.S.C. 5901.

[41] 22 U.S.C. 5902. See also sec. 1203 of Public Law 103–160.

[42] In a memorandum of December 30, 1992, for the Secretaries of State and Defense, and the Director, OMB, the President delegated authority established in sec. 502 of the FREEDOM Support Act and in sec. 1412(d) of Public Law 102–484 to the Secretary of State. The President further delegated authority in secs. 1412(a), 1431, and 1432 of this Act, and in secs. 503 and 508 of the FREEDOM Support Act to the Secretary of Defense. That memorandum further provided that: "The Secretary of Defense shall not exercise authority delegated * * * with respect to any former Soviet republic unless the Secretary of State has exercised his authority and performed the duty delegated * * * with respect to that former Soviet Republic. The Secretary of Defense shall not obligated funds in the exercise of authority delegated * * * unless the Director of the Office of Management and Budget has determined that expenditures during fiscal year

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the demilitarization of the independent states of the former Soviet Union.

(b) TYPES OF PROGRAMS.—The programs referred to in subsection (a) are limited to—

(1) transporting, storing, safeguarding, and destroying nuclear, chemical, and other weapons of the independent states of the former Soviet Union, as described in section 212(b) of the Soviet Nuclear Threat Reduction Act of 1991 (title II of Public Law 102–228);

(2) establishing verifiable safeguards against the proliferation of such weapons and their components;

(3) preventing diversion of weapons-related scientific expertise of the former Soviet Union to terrorist groups or third countries;

(4) facilitating the demilitarization of the defense industries of the former Soviet Union and the conversion of military technologies and capabilities into civilian activities;

(5) establishing science and technology centers in the independent states of the former Soviet Union for the purpose of engaging weapons scientists, engineers, and other experts previously involved with nuclear, chemical, and other weapons in productive, nonmilitary undertakings; and

(6) expanding military-to-military contacts between the United States and the independent states of the former Soviet Union.

(c) UNITED STATES PARTICIPATION.—The programs described in subsection (b) should, to the extent feasible, draw upon United States technology and expertise, especially from the United States private sector.

(d) RESTRICTIONS.—United States assistance authorized by subsection (a) may not be provided unless the President certifies to the Congress,[42] on an annual basis, that the proposed recipient country is committed to—

(1) making a substantial investment of its resources for dismantling or destroying such weapons of mass destruction, if such recipient has an obligation under a treaty or other agreement to destroy or dismantle any such weapons;

(2) forgoing any military modernization program that exceeds legitimate defense requirements and forgoing the replacement of destroyed weapons of mass destruction;

(3) forgoing any use in new nuclear weapons of fissionable or other components of destroyed nuclear weapons;

(4) facilitating United States verification of any weapons destruction carried out under this title or section 212 of the Soviet Nuclear Threat Reduction Act of 1991 (title II of Public Law 102–228);

(5) complying with all relevant arms control agreements; and

(6) observing internationally recognized human rights, including the protection of minorities.

1993 pursuant to such obligation shall be counted against the defense category of discretionary spending limits for that fiscal year (as defined in section 601(a)(2) of the Congressional Budget Act of 1974) for purposes of Part C of the Balanced Budget and Emergency Deficit Control Act of 1985." (58 F.R. 3193; January 8, 1993).

Subtitle C—Administrative and Funding Authorities

SEC. 1421.[43] ADMINISTRATION OF DEMILITARIZATION PROGRAMS.

(a) FUNDING.—(1) In recognition of the direct contributions to the national security interests of the United States of the activities specified in section 1412, funds transferred under sections 108 and 109 of Public Law 102–229 (105 Stat. 1708)[44] are authorized to be made available to carry out this title. Of the amount available to carry out this title—

(A) not more than $40,000,000 may be made available for programs referred to in section 1412(b)(4) relating to demilitarization of defense industries;

(B) not more than $15,000,000 may be made available for programs referred to in section 1412(b)(6) relating to military-to-military contacts;

(C) not more than $25,000,000 may be made available for joint research development programs pursuant to section 1441;

(D) not more than $10,000,000 may be made available for the study, assessment, and identification of nuclear waste disposal activities by the former Soviet Union in the Arctic region;

(E) not more than $25,000,000 may be made available for Project PEACE; and

(F) not more than $10,000,000 may be made available for the Volunteers Investing in Peace and Security (VIPS) program under chapter 89 of title 10, United States Code, as added by section 1322.

(2) Section 221(a) of the Soviet Nuclear Threat Reduction Act of 1991 (title II of Public Law 102–228; 105 Stat. 1695)[44] is amended—

(A) by striking out "fiscal year 1992" and inserting "fiscal years 1992 and 1993"; and

(B) by striking out "$400,000,000" and inserting in lieu thereof "$800,000,000".

(3) Section 221(e) of such Act is amended—

(A) by inserting "for fiscal year 1992 or fiscal year 1993" after "under part B";

(B) by inserting "for that fiscal year" after "for that program"; and

(C) by striking out "for fiscal year 1992" and inserting in lieu thereof "for that fiscal year".

(b) TECHNICAL REVISIONS TO PUBLIC LAW 102–229.—Public Law 102–229[44] is amended—

(1) in section 108 (105 Stat. 1708), by striking out "contained in H.R. 3807, as passed the Senate on November 25, 1991" and inserting in lieu thereof "(title II of Public Law 102–228)"; and

(2) in section 109 (105 Stat. 1708)—

(A) by striking out "H.R. 3807, as passed the Senate on November 25, 1991" and inserting in lieu thereof "Public Law 102–228 (105 Stat. 1696)"; and

(B) by striking "of H.R. 3807".

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[43] 22 U.S.C. 5911.

[44] For text, see *Legislation on Foreign Relations Through 2004*, vol. II, sec. F.

Subtitle D—Reporting Requirements

SEC. 1431.[45] PRIOR NOTICE TO CONGRESS OF OBLIGATION OF FUNDS.

(a) IN GENERAL.—Not less than 15 days before obligating any funds made available for a program under this title, the President shall transmit to the Congress a report[46] on the proposed obligation. Each such report shall specify—

(1) the account, budget activity, and particular program or programs from which the funds proposed to be obligated are to be derived and the amount of the proposed obligation; and

(2) the activities and forms of assistance under this title for which the President plans to obligate such funds, including the projected involvement of United States Government departments and agencies and the United States private sector.

(b) INDUSTRIAL DEMILITARIZATION.—Any report under subsection (a) that covers proposed industrial demilitarization projects shall contain additional information to assist the Congress in determining the merits of the proposed projects. Such information shall include descriptions of—

(1) the facilities to be demilitarized;

(2) the types of activities conducted at those facilities and of the types of nonmilitary activities planned for those facilities;

(3) the forms of assistance to be provided by the United States Government and by the United States private sector;

(4) the extent to which military production capability will consequently be eliminated at those facilities; and

(5) the mechanisms to be established for monitoring progress on those projects.

SEC. 1432.[47] QUARTERLY REPORTS ON PROGRAMS.

Not later than 30 days after the end of the last fiscal year quarter of fiscal year 1992 and not later than 30 days after the end of each fiscal year quarter of fiscal year 1993, the President shall transmit to the Congress a report[46] on the activities carried out under this title. Each such report shall set forth, for the preceding fiscal year quarter and cumulatively, the following:

(1) The amounts expended for such activities and the purposes for which they were expended.

(2) The source of the funds obligated for such activities, specified by program.

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[45] 22 U.S.C. 5921.

[46] In a memorandum of December 30, 1992, for the Secretaries of State and Defense, and the Director, OMB, the President delegated authority established in sec. 502 of the FREEDOM Support Act and in sec. 1412(d) of Public Law 102–484 to the Secretary of State. The President further delegated authority in secs. 1412(a), 1431, and 1432 of this Act, and in secs. 503 and 508 of the FREEDOM Support Act to the Secretary of Defense. That memorandum further provided that: "The Secretary of Defense shall not exercise authority delegated * * * with respect to any former Soviet republic unless the Secretary of State has exercised his authority and performed the duty delegated * * * with respect to that former Soviet Republic. The Secretary of Defense shall not obligated funds in the exercise of authority delegated * * * unless the Director of the Office of Management and Budget has determined that expenditures during fiscal year 1993 pursuant to such obligation shall be counted against the defense category of discretionary spending limits for that fiscal year (as defined in section 601(a)(2) of the Congressional Budget Act of 1974) for purposes of Part C of the Balanced Budget and Emergency Deficit Control Act of 1985." (58 F.R. 3193; January 8, 1993).

[47] 22 U.S.C. 5922.

(3) A description of the participation of all United States Government departments and agencies and the United States private sector in such activities.

(4) A description of the activities carried out under this title and the forms of assistance provided under this title, including, with respect to proposed industrial demilitarization projects, additional information on the progress toward demilitarization of facilities and the conversion of the demilitarized facilities to civilian activities.

(5) Such other information as the President considers appropriate to fully inform the Congress concerning the operation of the programs authorized under this title.

Subtitle E—Joint Research and Development Programs

SEC. 1441.[48] PROGRAMS WITH STATES OF FORMER SOVIET UNION.

The Congress encourages the Secretary of Defense to participate actively in joint research and development programs with the independent states of the former Soviet Union through the nongovernmental foundation established for this purpose by section 511 of the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 (Public Law 102–511; 106 Stat. 3345; 22 U.S.C. 5861).[49] To that end, the Secretary of Defense may spend those funds authorized in section 1421(a)(1)(C) for support, technical cooperation, in-kind assistance, and other activities with the following purposes:

(1) To advance defense conversion by funding civilian collaborative research and development projects between scientists and engineers in the United States and in the independent states of the former Soviet Union.

(2) To assist the establishment of a market economy in the independent states of the former Soviet Union by promoting, identifying, and partially funding joint research, development, and demonstration ventures between United States businesses and scientists, engineers, and entrepreneurs in those independent states.

(3) To provide a mechanism for scientists, engineers, and entrepreneurs in the independent states of the former Soviet Union to develop an understanding of commercial business practices by establishing linkages to United States scientists, engineers, and businesses.

(4) To provide access for United States businesses to sophisticated new technologies, talented researchers, and potential new markets within the independent states of the former Soviet Union.

(5) To provide productive research and development opportunities within the independent states of the former Soviet Union that offer scientists and engineers alternatives to emigration and help prevent proliferation of weapons technologies and the dissolution of the technological infrastructure of those states.

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[48] 22 U.S.C. 5931.

[49] Sec. 1182(c)(4) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1772) struck out "the FREEDOM Support Act of 1992" and inserted in lieu thereof "the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 (Public Law 102–511; 106 Stat. 3345; 22 U.S.C. 5861)".

TITLE XV—NONPROLIFERATION

SEC. 1501. SHORT TITLE.

This title may be cited as the "Weapons of Mass Destruction Control Act of 1992".

SEC. 1502. SENSE OF CONGRESS.

It is the sense of the Congress that—

(1) the proliferation (A) of nuclear, biological, and chemical weapons (hereinafter in this title referred to as "weapons of mass destruction") and related technology and knowledge and (B) of missile delivery systems remains one of the most serious threats to international peace and the national security of the United States in the post-cold war era;

(2) the proliferation of nuclear weapons, given the extraordinary lethality of those weapons, is of particularly serious concern;

(3) the nonproliferation policy of the United States should continue to seek to limit both the supply of and demand for weapons of mass destruction and to reduce the existing threat from proliferation of such weapons;

(4) substantial funding of nonproliferation activities by the United States is essential to controlling the proliferation of all weapons of mass destruction, especially nuclear weapons and missile delivery systems;

(5) the President's nonproliferation policy statement of June 1992, and his September 10, 1992, initiative to increase funding for nonproliferation activities in the Department of Energy are praiseworthy;

(6) the Congress is committed to cooperating with the President in carrying out an effective policy designed to control the proliferation of weapons of mass destruction;

(7) the President should identify a full range of appropriate, high priority nonproliferation activities that can be undertaken by the United States and should include requests for full funding for those activities in the budget submission for fiscal year 1994;

(8) the Department of Defense and the Department of Energy have unique expertise that can further enhance the effectiveness of international nonproliferation activities;

(9) under the guidance of the President, the Secretary of Defense and the Secretary of Energy should continue to actively assist in United States nonproliferation activities and in formulating and executing United States nonproliferation policy, emphasizing activities such as improved capabilities (A) to detect and monitor proliferation, (B) to respond to terrorism, theft, and accidents involving weapons of mass destruction, and (C) to assist with interdiction and destruction of weapons of mass destruction and related weapons material; and

(10) in a manner consistent with United States nonproliferation policy, the Department of Defense and the Department of Energy should continue to maintain and to improve their capabilities to identify, monitor, and respond to proliferation of weapons of mass destruction and missile delivery systems.

SEC. 1503. REPORT ON DEPARTMENT OF DEFENSE AND DEPARTMENT OF ENERGY NONPROLIFERATION ACTIVITIES.

(a) REPORT REQUIRED.—The Secretary of Defense and the Secretary of Energy shall jointly submit to the committees of Congress named in subsection (d)(1) a report describing the role of the Department of Defense and the Department of Energy with respect to the nonproliferation policy of the United States.

(b) MATTERS TO BE COVERED IN REPORT.—The report shall—

(1) address how the Secretary of Defense integrates and coordinates existing intelligence and military capabilities of the Department of Defense and how the Secretary of Energy integrates and coordinates the intelligence and emergency response capabilities of the Department of Energy in support of the nonproliferation policy of the United States;

(2) identify existing and planned capabilities within the Department of Defense, including particular capabilities of the military services, and the Department of Energy to (A) detect and monitor clandestine weapons of mass destruction programs, (B) respond to terrorism or accidents involving such weapons and to theft of related weapons materials, and (C) assist with interdiction and destruction of weapons of mass destruction and related weapons materials;

(3) describe, for the Department of Defense, the degree to which the Secretary of Defense has incorporated a nonproliferation mission into the overall mission of the unified combatant commands and how the Special Operations Command might support the commanders of the unified and specified commands in that mission;

(4) consider the appropriate roles of the Defense Advance Research Projects Agency (DARPA), the Defense Nuclear Agency (DNA), the On-Site-Inspection Agency (OSIA), and other Department of Defense agencies, as well as the national laboratories of the Department of Energy, in providing technical assistance and support for the efforts of the Department of Defense and the Department of Energy with respect to nonproliferation; and

(5) identify existing and planned mechanisms for improving the integration of Department of Defense and Department of Energy nonproliferation activities with those of other Federal departments and agencies.

(c) COORDINATION WITH OTHER AGENCIES.—The report required by subsection (a) shall, for purposes of subsection (b)(5), be coordinated with the heads of other appropriate departments and agencies.

(d) SUBMISSION OF REPORT.—(1) The report required by subsection (a) shall be submitted—

(A) to the Committee on Armed Services and the Committee on Foreign Relations of the Senate; and

(B) to the Committee on Armed Services, the Committee on Foreign Affairs, and the Committee on Energy and Commerce of the House of Representatives.[50]

(2) The report shall be submitted not later than 180 days after the date of enactment of this Act and shall be submitted in unclassified form and, as necessary, in classified form.

SEC. 1504. NONPROLIFERATION TECHNOLOGY INITIATIVE.

(a) FUNDS FOR DEPARTMENT OF DEFENSE ACTIVITIES.—

(1) Of the amount appropriated pursuant to section 103(3) for Other Procurement, Air Force, $5,000,000 shall be available for the AFTAC Chem/Biological Collection/Processing program.

(2) Of the amount appropriated pursuant to section 201(3) for Research, Development, Test, and Evaluation, Air Force, $6,500,000 shall be available for the Joint Seismic Program.

(3) Of the amount appropriated pursuant to section 201(4) for Research, Development, Test, and Evaluation, Defense Agencies—

(A) $11,600,000 shall be available for LIDAR,

(B) $5,000,000 shall be available for Seismic programs of the Defense Advanced Research Projects Agency, and

(C) $15,000,000 shall be available for Nuclear Proliferation Detection Technology programs of the Defense Advanced Research Projects Agency.

(b) FUNDS FOR DEPARTMENT OF ENERGY ACTIVITIES.—Of the amount appropriated pursuant to section 3104(a)(2) for Verification and Control Technologies, $86,000,000 shall be available for nuclear nonproliferation detection technologies and activities. Of such amount, not more than $30,000,000 may be obligated until the report required by section 1503 is submitted.

SEC. 1505.[51] INTERNATIONAL NONPROLIFERATION INITIATIVE.

(a) ASSISTANCE FOR INTERNATIONAL NONPROLIFERATION ACTIVITIES.—Subject to the limitations and requirements provided in this section,[52] the Secretary of Defense, under the guidance of the President, may provide assistance to support international nonproliferation activities.

(b) ACTIVITIES FOR WHICH ASSISTANCE MAY BE PROVIDED.—Activities for which assistance may be provided under this section are activities such as the following:

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[50] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. Sec. 1(a)(5) of that Act provided that references to the Committee on Foreign Affairs shall be treated as referring to the Committee on International Relations; and sec. 1(a)(4) provided that references to the Committee on Energy and Commerce shall be treated as referring to the Committee on Commerce. The Committee on National Security subsequently returned to the name "Committee on Armed Services"; see sec. 1067 of Public Law 106–65 (113 Stat. 774).

[51] 22 U.S.C. 5859a.

[52] Sec. 1602(a) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1843) struck out "fiscal year 1993" and inserted in lieu thereof "fiscal year 1994" in subsecs. (a), (d)(1), and (e). Sec. 1501(a)(1) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2914) struck out "during fiscal year 1994" in subsec. (a) and inserted in lieu thereof "during fiscal years 1994 and 1995", and in subsec. (e)(1) struck out "fiscal year 1994" and inserted in lieu thereof "fiscal years 1994 and 1995". Sec. 1403(a)(1) of Public Law 104–106 (110 Stat. 489) struck out "during fiscal years 1994 and 1995", and sec. 1403(a)(2) of that Act amended sec. (e)(1) by striking out "fiscal years 1994 and 1995" and inserting in lieu thereof "a fiscal year during which the authority of the Secretary of Defense to provide assistance under this section is in effect".

(1) Activities carried out by international organizations[53] that are designed to ensure more effective safeguards against[54] proliferation and more effective[55] verification of compliance with international agreements on nonproliferation.[56]

(2) Activities of the Department of Defense[57] in support of the United Nations Special Commission on Iraq (or any successor organization).[58]

(3) Collaborative international nuclear security and nuclear safety projects to combat the threat of nuclear theft, terrorism, or accidents, including joint emergency response exercises, technical assistance, and training.

(4) Efforts to improve international cooperative monitoring of nuclear, biological, chemical, and missile proliferation through technical projects and improved information sharing.[59]

(c) FORM OF ASSISTANCE.—(1) Assistance under this section may include funds and in-kind contributions of supplies, equipment, personnel, training, and other forms of assistance.

(2) Assistance under this section may be provided to international organizations in the form of funds only if the amount in the "Contributions to International Organizations" account of the Department of State is insufficient or otherwise unavailable to meet the United States fair share of assessments for international nuclear nonproliferation activities.

(3) No amount may be obligated for an expenditure under this section unless the Director of the Office of Management and Budget determines that the expenditure will be counted as discretionary spending in the national defense budget function (function 050).[60]

(4) No assistance may be furnished under this section unless the Secretary of Defense determines and certifies to the Congress 30 days in advance that the provision of such assistance—

(A) is in the national security interest of the United States; and

(B) will not adversely affect the military preparedness of the United States.

(5) The authority to provide assistance under this section in the form of funds may be exercised only to the extent and in the amounts provided in advance in appropriations Act.

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[53] Sec. 1501(b)(1)(A) of Public Law 103–337 (108 Stat. 2914) struck out "the International Atomic Energy Agency (IAEA)" and inserted in lieu thereof "international organizations".

[54] Sec. 1501(b)(1)(B) of Public Law 103–337 (108 Stat. 2914) struck out "nuclear" before "proliferation".

[55] Sec. 1501(b)(1)(C) of Public Law 103–337 (108 Stat. 2914) struck out "aggressive" and inserted in lieu thereof "effective".

[56] Sec. 1501(b)(1)(D) of Public Law 103–337 (108 Stat. 2914) struck out "the Treaty on the Non-Proliferation of Nuclear Weapons, done on July 1, 1968." and inserted in lieu thereof "international agreements on nonproliferation.".

[57] Sec. 1403(b)(1) of Public Law 104–106 (110 Stat. 489) struck out "the On-Site Inspection Agency" and inserted in lieu thereof "the Department of Defense" in subsecs. (b)(2) and (d)(3).

[58] Sec. 1505(c)(1) of Public Law 106–65 (113 Stat. 808) inserted "(or any successor organization)".

[59] Sec. 1501(b)(2) of Public Law 103–337 (108 Stat. 2914) struck out "nuclear proliferation through joint technical projects and improved intelligence sharing" and inserted in lieu thereof "nuclear, biological, chemical, and missile proliferation through technical projects and improved information sharing".

[60] Sec. 1403(b)(2) of Public Law 104–106 (110 Stat. 490) struck out "will be counted against the defense category of the discretionary spending limits for fiscal year 1993 (as defined in section 601(a)(2) of the Congressional Budget Act of 1974) for purposes of part C of the Balanced Budget and Emergency Deficit Control Act of 1985." and inserted in lieu thereof "will be counted as discretionary spending in the national defense budget function (function 050).".

(d)[61] SOURCES OF ASSISTANCE.—(1) Funds provided as assistance under this section for any fiscal year shall be derived from amounts made available to the Department of Defense for that fiscal year.[62] Funds provided as assistance under this section for a fiscal year[63] may also be derived from balances in working capital accounts of the Department of Defense.

(2) Supplies and equipment provided as assistance under this section may be provided, by loan or donation, from existing stocks of the Department of Defense and the Department of Energy.

(3) The total amount of the assistance provided in the form of funds under this section,[64] including funds used for activities of the Department of Defense[57] in support of the United Nations Special Commission on Iraq,[65] may not exceed $25,000,000 for fiscal year 1994, $20,000,000 for fiscal year 1995, $15,000,000 for fiscal year 1996, $15,000,000 for fiscal year 1997, or $15,000,000 for fiscal year 1998.

(4)[66] (A) In the event of a significant unforeseen development related to the activities of the United Nations Special Commission on Iraq (or any successor organization)[67] for which the Secretary of Defense determines that financial assistance under this section is required at a level which would result in the total amount of assistance provided under this section during the then-current fiscal year exceeding the amount of any limitation provided by law on the total amount of such assistance for that fiscal year, the Secretary

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[61] Sec. 1602(c) of that Act struck out para. (4), which read as follows:

"(4) Not less than 30 days before obligating any funds to provide assistance under this section, the Secretary of Defense shall transmit to the committees of Congress named in subsection (e)(2) a report on the proposed obligation. Each such report shall specify—

"(A) the account, budget activity, and particular program or programs from which the funds proposed to be obligated are to be derived and the amount of the proposed obligation; and

"(B) the activities and forms of assistance for which the Secretary of Defense plans to obligate the funds.".

[62] Sec. 1403(c)(1)(A) of Public Law 104–106 (110 Stat. 490) amended and restated the first two sentences of subsec. (d)(1). Previously, sec. 1501(c)(1) of Public Law 103–337 (108 Stat. 2914) amended the subsection.

[63] Sec. 1403(c)(1)(B) of Public Law 104–106 (110 Stat. 490) struck out "referred to in this paragraph" after "for a fiscal year".

[64] Sec. 1501(c)(2) of Public Law 103–337 (108 Stat. 2914) inserted "for fiscal year 1994 or $20,000,000 for fiscal year 1995" after "$25,000,000". Sec. 1403(c)(2)(A) of Public Law 104–106 (110 Stat. 490) subsequently struck out "may not exceed $25,000,000 for fiscal year 1994 or $20,000,000 for fiscal year 1995" and inserted ', may not exceed $25,000,000 for fiscal year 1994, $20,000,000 for fiscal year 1995, or $15,000,000 for fiscal year 1996" at the end of the sentence. Subsequent to that, sec. 1301(a) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2700) struck out "or" after "fiscal year 1995" and added ", or $15,000,000 for fiscal year 1997" at the end of the sentence. Subsequent to that, sec. 1308(1) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1956) struck out "or" after "fiscal year 1996" and added ", or $15,000,000 for fiscal year 1998" at the end of the sentence.

[65] Sec. 1602(b)(1) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1843) struck out "$40,000,000" and inserted in lieu thereof "$25,000,000, including funds used for activities of the On-Site Inspection Agency in support of the United Nations Special Commission on Iraq".

Sec. 1602(b)(2) of that Act, furthermore, struck out a second sentence in para. (3), which read as follows: "Of such amount, not more than $20,000,000 may be used for the activities of the On-Site Inspection Agency in support of the United Nations Special Commission on Iraq.".

[66] Sec. 1301(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2700) added para. (4).

[67] Sec. 1505(c)(2)(A)(i) of Public Law 106–65 (113 Stat. 808) inserted "(or any successor organization)".

of Defense may provide such assistance with respect to that fiscal year notwithstanding that limitation.[68]

(B) Financial assistance may be provided under subparagraph (A) only after the Secretary of Defense provides notice in writing to the committees of Congress named in subsection (e)(2) of the significant unforeseen development and of the Secretary's intent to provide assistance in excess of the limitation for that fiscal year.[69] However, if the Secretary determines in any case that under the specific circumstances of that case advance notice is not possible, such notice shall be provided as soon as possible and not later than 15 days after the date on which the assistance is provided. Any notice under this subparagraph shall include a description of the development, the amount of assistance provided or to be provided, and the source of the funds for that assistance.

(e) QUARTERLY REPORT.—(1) Not later than 30 days after the end of each quarter of a fiscal year during which the authority of the Secretary of Defense to provide assistance under this section is in effect,[52] the Secretary of Defense shall transmit to the committees of Congress named in paragraph (2) a report of the activities to reduce the proliferation threat carried out under this section. Each report shall set forth (for the preceding quarter and cumulatively)—

(A) the amounts spent for such activities and the purposes for which they were spent;

(B) a description of the participation of the Department of Defense and the Department of Energy and the participation of other Government agencies in those activities; and

(C) a description of the activities for which the funds were spent.

(2) The committees of Congress to which reports under paragraph (1)[70] are to be transmitted are—

(A) the Committee on Armed Services, the Committee on Appropriations, and the Committee on Foreign Relations of the Senate; and

(B)[71] the Committee on Armed Services, the Committee on Appropriations, the Committee on International Relations, and the Committee on Commerce of the House of Representatives.

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[68] Sec. 1505(c)(2)(A)(ii) of Public Law 106–65 (113 Stat. 808) struck out "the amount specified with respect to that year under paragraph (3), the Secretary of Defense may provide such assistance notwithstanding the limitation with respect to that fiscal year under paragraph (3). Funds for such purpose may be derived from any funds available to the Department of Defense for that fiscal year." and inserted in lieu thereof "the amount of any limitation provided by law on the total amount of such assistance for that fiscal year, the Secretary of Defense may provide such assistance with respect to that fiscal year notwithstanding that limitation.".

[69] Sec. 1505(c)(2)(B) of Public Law 106–65 (113 Stat. 808) struck out "under paragraph (3)" at this point.

[70] Sec. 1070(c)(1) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2857) struck out "and under subsection (d)(4)" after "paragraph (1)". Previously, sec. 1182(c)(5) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1772) struck out "(d)(2)" and inserted in lieu thereof "(d)(4)".

[71] Sec. 1502(c)(2)(B) of Public Law 104–106 (110 Stat. 507) struck out "the Committee on Armed Services, the Committee on Appropriations, the Committee on Foreign Affairs, and the Committee on Energy and Commerce" and inserted in lieu thereof "the Committee on National Security, the Committee on Appropriations, the Committee on International Relations, and the Committee on Commerce". Subsequently, sec. 1067(8) of Public Law 106–65 (113 Stat. 774) struck out "Committee on National Security" and inserted in lieu thereof "Committee on Armed Services".

(f)[72] TERMINATION OF AUTHORITY.—The authority of the Secretary of Defense to provide assistance under this section terminates at the close of fiscal year 2003.

TITLE XVI—IRAN-IRAQ ARMS NON-PROLIFERATION ACT OF 1992[73]

SEC. 1601. SHORT TITLE.

This title may be cited as the "Iran-Iraq Arms Non-Proliferation Act of 1992".

SEC. 1602. UNITED STATES POLICY.

(a) IN GENERAL.—It shall be the policy of the United States to oppose, and urgently to seek the agreement of other nations also to oppose, any transfer to Iran or Iraq of any goods or technology, including dual-use goods or technology, wherever that transfer could materially contribute to either country's acquiring chemical, biological, nuclear, or destabilizing numbers and types of advanced conventional weapons.

(b) SANCTIONS.—(1) In the furtherance of this policy, the President shall apply sanctions and controls with respect to Iran, Iraq, and those nations and persons who assist them in acquiring weapons of mass destruction in accordance with the Foreign Assistance

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[72] Sec. 1403(a)(3) of Public Law 104–106 (110 Stat. 489) added subsec. (f). Sec. 1301(a)(2) of Public Law 104–201 (110 Stat. 2700) struck out "1996" and inserted in lieu thereof "1997". Sec. 1308(2) of Public Law 105–85 (111 Stat. 1956) extended the authority through fiscal year 1998. Sec. 1308(2) of Public Law 105–261 (112 Stat. 2180) extended the authority through fiscal year 1999. Sec. 1505(b) of Public Law 106–65 (113 Stat. 808) extended the authority through fiscal year 2000. Sec. 1201(b) of Public Law 106–398 (114 Stat. 1654) extended the authority through fiscal year 2001. Sec. 1203(b) of Public Law 107–107 (115 Stat. 1246) extended the authority through fiscal year 2002. Sec. 1204(b) of Public Law 107–314 (116 Stat. 2664) extended the authority through fiscal year 2003.

[73] 50 U.S.C. 1701 note. In a September 27, 1994, memorandum for the Secretary of State, the President delegated all functions vested in the President by this title to the Secretary of State, in consultation with the Secretaries of Defense, Treasury, Commerce, the Director of the Arms Control and Disarmament Agency, and other heads of appropriate departments and agencies (59 F.R. 50685).

Sec. 1503 of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11; 117 Stat. 579), as amended, provides the following:

"SEC. 1503. The President may suspend the application of any provision of the Iraq Sanctions Act of 1990: *Provided,* That nothing in this section shall affect the applicability of the Iran-Iraq Arms Non-Proliferation Act of 1992 (Public Law 102–484), except that such Act shall not apply to humanitarian assistance and supplies: *Provided further,* That the President may make inapplicable with respect to Iraq section 620A of the Foreign Assistance Act of 1961 or any other provision of law that applies to countries that have supported terrorism: *Provided further,* That military equipment, including equipment as defined by title XVI, section 1608(1)(A) of Public Law 102–484, shall not be exported under the authority of this section: *Provided further,* That section 307 of the Foreign Assistance Act of 1961 shall not apply with respect to programs of international organizations for Iraq: *Provided further,* That provisions of law that direct the United States Government to vote against or oppose loans or other uses of funds, including for financial or technical assistance, in international financial institutions for Iraq shall not be construed as applying to Iraq: *Provided further,* That the President shall submit a notification 5 days prior to exercising any of the authorities described in this section to the Committee on Appropriations of each House of the Congress, the Committee on Foreign Relations of the Senate, and the Committee on International Relations of the House of Representatives: *Provided further,* That not more than 60 days after enactment of this Act and every 90 days thereafter the President shall submit a report to the Committee on Appropriations of each House of the Congress, the Committee on Foreign Relations of the Senate, and the Committee on International Relations of the House of Representatives containing a summary of all licenses approved for export to Iraq of any item on the Commerce Control List contained in the Export Administration Regulations, 15 CFR Part 774, Supplement 1, including identification of end users of such items: *Provided further,* That the authorities contained in this section shall expire on September 30, 2004, or on the date of enactment of a subsequent Act authorizing assistance for Iraq and that specifically amends, repeals or otherwise makes inapplicable the authorities of this section, whichever occurs first.".

Act of 1961, the Nuclear Non-Proliferation Act of 1978, the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991, chapter 7 of the Arms Export Control Act,[74] and other relevant statutes, regarding the non-proliferation of weapons of mass destruction and the means of their delivery.

(2) The President should also urgently seek the agreement of other nations to adopt and institute, at the earliest practicable date, sanctions and controls comparable to those the United States is obligated to apply under this subsection.

(c) PUBLIC IDENTIFICATION.—The Congress calls on the President to identify publicly (in the report required by section 1607) any country or person that transfers goods or technology to Iran or Iraq contrary to the policy set forth in subsection (a).

SEC. 1603. APPLICATION TO IRAN OF CERTAIN IRAQ SANCTIONS.

The sanctions against Iraq specified in paragraphs (1) through (4) of section 586G(a) of the Iraq Sanctions Act of 1990 (as contained in Public Law 101–513), including denial of export licenses for United States persons and prohibitions on United States Government sales, shall be applied to the same extent and in the same manner with respect to Iran.

SEC. 1604. SANCTIONS AGAINST CERTAIN PERSONS.

(a) PROHIBITION.—If any person transfers or retransfers goods or technology so as to contribute knowingly and materially to the efforts by Iran or Iraq (or any agency or instrumentality of either such country) to acquire chemical, biological, or nuclear weapons or[75] to acquire destabilizing numbers and types of advanced conventional weapons, then the sanctions described in subsection (b) shall be imposed.

(b) MANDATORY SANCTIONS.—The sanctions to be imposed pursuant to subsection (a) are as follows:

(1) PROCUREMENT SANCTION.—For a period of two years, the United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from the sanctioned person.

(2) EXPORT SANCTION.—For a period of two years, the United States Government shall not issue any license for any export by or to the sanctioned person.

SEC. 1605. SANCTIONS AGAINST CERTAIN FOREIGN COUNTRIES.

(a) PROHIBITION.—If the President determines that the government of any foreign country transfers or retransfers goods or technology so as to contribute knowingly and materially to the efforts by Iran or Iraq (or any agency or instrumentality of either such

[74] Foreign Assistance Act of 1961 (Public Law 87–195), see *Legislation on Foreign Relations Through 2004*, vol. I–A; Nuclear Non-Proliferation Act of 1978 (Public Law 95–242), see *Legislation on Foreign Relations Through 2004*, vol. IV, sec. L; Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (Public Law 101–182), see *Legislation on Foreign Relations Through 2004*, vol. II, sec. F; chapter 7 of the Arms Export Control Act, see *Legislation on Foreign Relations Through 2004*, vol. I–A.

[75] Sec. 1408(a) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 494), inserted "to acquire chemical, biological, or nuclear weapons or" before "to acquire".

country) to acquire chemical, biological, or nuclear weapons or[76] to acquire destabilizing numbers and types of advanced conventional weapons, then—

(1) the sanctions described in subsection (b) shall be imposed on such country; and

(2) in addition, the President may apply, in the discretion of the President, the sanction described in subsection (c).

(b) MANDATORY SANCTIONS.—Except as provided in paragraph (2), the sanctions to be imposed pursuant to subsection (a)(1) are as follows:

(1) SUSPENSION OF UNITED STATES ASSISTANCE.—The United States Government shall suspend, for a period of one year, United States assistance to the sanctioned country.

(2) MULTILATERAL DEVELOPMENT BANK ASSISTANCE.—The Secretary of the Treasury shall instruct the United States Executive Director to each appropriate international financial institution to oppose, and vote against, for a period of one year, the extension by such institution of any loan or financial or technical assistance to the sanctioned country.

(3) SUSPENSION OF CODEVELOPMENT OR COPRODUCTION AGREEMENTS.—The United States shall suspend, for a period of one year, compliance with its obligations under any memorandum of understanding with the sanctioned country for the codevelopment or coproduction of any item on the United States Munitions List (established under section 38 of the Arms Export Control Act), including any obligation for implementation of the memorandum of understanding through the sale to the sanctioned country of technical data or assistance or the licensing for export to the sanctioned country of any component part.

(4) SUSPENSION OF MILITARY AND DUAL-USE TECHNICAL EXCHANGE AGREEMENTS.—The United States shall suspend, for a period of one year, compliance with its obligations under any technical exchange agreement involving military and dual-use technology between the United States and the sanctioned country that does not directly contribute to the security of the United States, and no military or dual-use technology may be exported from the United States to the sanctioned country pursuant to that agreement during that period.

(5) UNITED STATES MUNITIONS LIST.—No item on the United States Munitions List (established pursuant to section 38 of the Arms Export Control Act) may be exported to the sanctioned country for a period of one year.

(c) DISCRETIONARY SANCTION.—The sanction referred to in subsection (a)(2) is as follows:

(1) USE OF AUTHORITIES OF INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT.—Except as provided in paragraph (2), the President may exercise, in accordance with the provisions of that Act, the authorities of the International Emergency Economic Powers Act with respect to the sanctioned country.

[76] Sec. 1408(b) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 494) inserted "to acquire chemical, biological, or nuclear weapons or" before "to acquire".

(2) EXCEPTION.—Paragraph (1) does not apply with respect to urgent humanitarian assistance.

SEC. 1606. WAIVER.

The President may waive the requirement to impose a sanction described in section 1603, in the case of Iran, or a sanction described in section 1604(b) or 1605(b), in the case of Iraq and Iran, 15 days after the President determines and so reports to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs[77] of the House of Representatives that it is essential to the national interest of the United States to exercise such waiver authority. Any such report shall provide a specific and detailed rationale for such determination.

SEC. 1607. REPORTING REQUIREMENT.

(a)[78] * * * [Repealed—2002]

(b) REPORT ON INDIVIDUAL TRANSFERS.—Whenever the President determines that a person or foreign government has made a transfer which is subject to any sanction under this title, the President shall, within 30 days after such transfer, submit to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs[77] of the House of Representatives a report—

(1) identifying the person or government and providing the details of the transfer; and

(2) describing the actions the President intends to undertake or has undertaken under the provisions of this title with respect to each such transfer.

(c) FORM OF TRANSMITTAL.—Reports required by this section may be submitted in classified as well as in unclassified form.

SEC. 1608. DEFINITIONS.

For purposes of this title:

(1) The term "advanced conventional weapons" includes—

(A) such long-range precision-guided munitions, fuel air explosives, cruise missiles, low observability aircraft, other radar evading aircraft, advanced military aircraft, military satellites, electromagnetic weapons, and laser weapons as the President determines destabilize the military balance or enhance offensive capabilities in destabilizing ways;

(B) such advanced command, control, and communications systems, electronic warfare systems, or intelligence collection systems as the President determines destabilize the military balance or enhance offensive capabilities in destabilizing ways; and

[77] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. Sec. 1(a)(5) of that Act provided that references to the Committee on Foreign Affairs shall be treated as referring to the Committee on International Relations. The Committee on National Security subsequently returned to the name "Committee on Armed Services"; see sec. 1067 of Public Law 106–65 (113 Stat. 774).

[78] Sec. 1308(g)(1)(C) of Public Law 107–228 (116 Stat. 1441) struck out subsec. (a), which had required the President to file an annual report with the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and International Relations of the House of Representatives on transfers subject to this title.

(C) such other items or systems as the President may, by regulation, determine necessary for purposes of this title.

(2) The term "cruise missile" means guided missiles that use aerodynamic lift to offset gravity and propulsion to counteract drag.

(3) The term "goods or technology" means—

(A) any article, natural or manmade substance, material, supply, or manufactured product, including inspection and test equipment; and

(B) any information and know-how (whether in tangible form, such as models, prototypes, drawings, sketches, diagrams, blueprints, or manuals, or in intangible form, such as training or technical services) that can be used to design, produce, manufacture, utilize, or reconstruct goods, including computer software and technical data.

(4) The term "person" means any United States or foreign individual, partnership, corporation, or other form of association, or any of their successor entities, parents, or subsidiaries.

(5) The term "sanctioned country" means a country against which sanctions are required to be imposed pursuant to section 1605.

(6) The term "sanctioned person" means a person that makes a transfer described in section 1604(a).

(7) The term "United States assistance" means—

(A)[79] any assistance under the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), other than urgent humanitarian assistance or medicine.

(B) sales and assistance under the Arms Export Control Act;

(C) financing by the Commodity Credit Corporation for export sales of agricultural commodities; and

(D) financing under the Export-Import Bank Act.

TITLE XVII—CUBAN DEMOCRACY ACT OF 1992

SEC. 1701.[80] SHORT TITLE.

This title may be cited as the "Cuban Democracy Act of 1992".

SEC. 1702.[81] FINDINGS.

The Congress makes the following findings:

(1) The government of Fidel Castro has demonstrated consistent disregard for internationally accepted standards of human rights and for democratic values. It restricts the Cuban people's exercise of freedom of speech, press, assembly, and other rights recognized by the Universal Declaration of Human Rights adopted by the General Assembly of the United Nations on December 10, 1948. It has refused to admit into Cuba the

[79] Sec. 1408(c) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 494) amended and restated subpara. (A). It formerly read as follows:

"(A) any assistance under the Foreign Assistance Act of 1961, other than—

"(i) urgent humanitarian assistance or medicine, and

"(ii) assistance under chapter 11 of part I (as enacted by the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992);".

[80] 22 U.S.C. 6001 note.

[81] 22 U.S.C. 6001.

representative of the United Nations Human Rights Commission appointed to investigate human rights violations on the island.

(2) The Cuban people have demonstrated their yearning for freedom and their increasing opposition to the Castro government by risking their lives in organizing independent, democratic activities on the island and by undertaking hazardous flights for freedom to the United States and other countries.

(3) The Castro government maintains a military-dominated economy that has decreased the well-being of the Cuban people in order to enable the government to engage in military interventions and subversive activities throughout the world and, especially, in the Western Hemisphere. These have included involvement in narcotics trafficking and support for the FMLN guerrillas in El Salvador.

(4) There is no sign that the Castro regime is prepared to make any significant concessions to democracy or to undertake any form of democratic opening. Efforts to suppress dissent through intimidation, imprisonment, and exile have accelerated since the political changes that have occurred in the former Soviet Union and Eastern Europe.

(5) Events in the former Soviet Union and Eastern Europe have dramatically reduced Cuba's external support and threaten Cuba's food and oil supplies.

(6) The fall of communism in the former Soviet Union and Eastern Europe, the now universal recognition in Latin America and the Caribbean that Cuba provides a failed model of government and development, and the evident inability of Cuba's economy to survive current trends, provide the United States and the international democratic community with an unprecedented opportunity to promote a peaceful transition to democracy in Cuba.

(7) However, Castro's intransigence increases the likelihood that there could be a collapse of the Cuban economy, social upheaval, or widespread suffering. The recently concluded Cuban Communist Party Congress has underscored Castro's unwillingness to respond positively to increasing pressures for reform either from within the party or without.

(8) The United States cooperated with its European and other allies to assist the difficult transitions from Communist regimes in Eastern Europe. Therefore, it is appropriate for those allies to cooperate with United States policy to promote a peaceful transition in Cuba.

SEC. 1703.[82] STATEMENT OF POLICY.

It should be the policy of the United States—

(1) to seek a peaceful transition to democracy and a resumption of economic growth in Cuba through the careful application of sanctions directed at the Castro government and support for the Cuban people;

(2) to seek the cooperation of other democratic countries in this policy;

[82] 22 U.S.C. 6002.

(3) to make clear to other countries that, in determining its relations with them, the United States will take into account their willingness to cooperate in such a policy;

(4) to seek the speedy termination of any remaining military or technical assistance, subsidies, or other forms of assistance to the Government of Cuba from any of the independent states of the former Soviet Union;

(5) to continue vigorously to oppose the human rights violations of the Castro regime;

(6) to maintain sanctions on the Castro regime so long as it continues to refuse to move toward democratization and greater respect for human rights;

(7) to be prepared to reduce the sanctions in carefully calibrated ways in response to positive developments in Cuba;

(8) to encourage free and fair elections to determine Cuba's political future;

(9) to request the speedy termination of any military or technical assistance, subsidies, or other forms of assistance to the Government of Cuba from the government of any other country; and

(10) to initiate immediately the development of a comprehensive United States policy toward Cuba in a post-Castro era.

SEC. 1704.[83,84] **INTERNATIONAL COOPERATION.**

(a) CUBAN TRADING PARTNERS.—The President should encourage the governments of countries that conduct trade with Cuba to restrict their trade and credit relations with Cuba in a manner consistent with the purposes of this title.

(b) SANCTIONS AGAINST COUNTRIES ASSISTING CUBA.—

(1) SANCTIONS.—The President may apply the following sanctions to any country that provides assistance to Cuba:

(A) The government of such country shall not be eligible for assistance under the Foreign Assistance Act of 1961 or assistance or sales under the Arms Export Control Act.

(B) Such country shall not be eligible, under any program, for forgiveness or reduction of debt owed to the United States Government.

(2) DEFINITION OF ASSISTANCE.—For purposes of paragraph (1), the term "assistance to Cuba"—

(A) means assistance to or for the benefit of the Government of Cuba that is provided by grant, concessional sale, guaranty, or insurance, or by any other means on terms

[83] 22 U.S.C. 6003. Authority in this section was delegated to the Secretary of State, pursuant to sec. 2 of Executive Order 12854 (58 F.R. 36587; July 4, 1993).

[84] Sec. 204 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (Public Law 104–114; 110 Stat. 810) authorized the President to take steps to suspend the economic embargo of Cuba upon submitting a determination to the appropriate congressional committees that a transition government is in power in Cuba. The section, furthermore, repealed the following sections of law upon the issuance of a Presidential determination that a democratically elected government is in power in Cuba:

(1) section 620(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a));

(2) section 620(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(f)) with respect to the "Republic of Cuba";

(3) sections 1704, 1705(d), and 1706 of the Cuban Democracy Act of 1992 (22 U.S.C. 6003, 6004(d), and 6005); and

(4) section 902(c) of the Food Security Act of 1985.

Congress, until such a transition to democracy in Cuba is attained, reaffirmed the intent of section 1704, and other sections, of the Cuban Democracy Act. See Public Law 104–114.

more favorable than that generally available in the applicable market, whether in the form of a loan, lease, credit, or otherwise, and such term includes subsidies for exports to Cuba and favorable tariff treatment of articles that are the growth, product, or manufacture of Cuba;[85]

(B)[85] includes an exchange, reduction, or forgiveness of Cuban debt owed to a foreign country in return for a grant of an equity interest in a property, investment, or operation of the Government of Cuba (including the government of any political subdivision of Cuba, and any agency or instrumentality of the Government of Cuba) or of a Cuban national; and

(C)[85] does not include—

(i) donations of food to nongovernmental organizations or individuals in Cuba, or

(ii) exports of medicines or medical supplies, instruments, or equipment that would be permitted under section 1705(c).

As used in this paragraph, the term "agency or instrumentality of the Government of Cuba" means an agency or instrumentality of a foreign state as defined in section 1603(b) of title 28, United States Code, with each reference in such section to "a foreign state" deemed to be a reference to "Cuba".

(3) APPLICABILITY OF SECTION.—This section, and any sanctions imposed pursuant to this section, shall cease to apply at such time as the President makes and reports to the Congress a determination under section 1708(a).

SEC. 1705.[86] SUPPORT FOR THE CUBAN PEOPLE.

(a) PROVISIONS OF LAW AFFECTED.—The provisions of this section apply notwithstanding any other provision of law, including section 620(a) of the Foreign Assistance Act of 1961, and notwithstanding the exercise of authorities, before the enactment of this Act, under section 5(b) of the Trading With the Enemy Act, the International Emergency Economic Powers Act, or the Export Administration Act of 1979.

(b) DONATIONS OF FOOD.—Nothing in this or any other Act shall prohibit donations of food to nongovernmental organizations or individuals in Cuba.

(c) EXPORTS OF MEDICINES AND MEDICAL SUPPLIES.—Exports of medicines or medical supplies, instruments, or equipment to Cuba shall not be restricted—

(1) except to the extent such restrictions would be permitted under section 5(m) of the Export Administration Act of 1979 or section 203(b)(2) of the International Emergency Economic Powers Act;[87]

(2) except in a case in which there is a reasonable likelihood that the item to be exported will be used for purposes of torture or other human rights abuses;

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[85] Sec. 102(f) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (Public Law 104–114; 110 Stat. 793) struck out "and" at the end of subpara. (A); redesignated subpara. (B) as subpara. (C); inserted a new subpara. (B); and added the flush sentence at the end of para. (2).

[86] 22 U.S.C. 6004.

[87] For text, see *Legislation on Foreign Relations Through 2004*, vol. III, sec. J.

(3) except in a case in which there is a reasonable likelihood that the item to be exported will be reexported; and

(4) except in a case in which the item to be exported could be used in the production of any biotechnological product.

(d)[84] REQUIREMENTS FOR CERTAIN EXPORTS.—

(1) ONSITE VERIFICATIONS.—(A) Subject to subparagraph (B), an export may be made under subsection (c) only if the President determines that the United States Government is able to verify, by onsite inspections and other appropriate means, that the exported item is to be used for the purposes for which it was intended and only for the use and benefit of the Cuban people.

(B) Subparagraph (A) does not apply to donations to nongovernmental organizations in Cuba of medicines for humanitarian purposes.

(2) LICENSES.—Exports permitted under subsection (c) shall be made pursuant to specific licenses issued by the United States Government.

(e) TELECOMMUNICATIONS SERVICES AND FACILITIES.—

(1) TELECOMMUNICATIONS SERVICES.—Telecommunications services between the United States and Cuba shall be permitted.

(2) TELECOMMUNICATIONS FACILITIES.—Telecommunications facilities are authorized in such quantity and of such quality as may be necessary to provide efficient and adequate telecommunications services between the United States and Cuba.

(3) LICENSING OF PAYMENTS TO CUBA.—(A) The President may provide for the issuance of licenses for the full or partial payment to Cuba of amounts due Cuba as a result of the provision of telecommunications services authorized by this subsection, in a manner that is consistent with the public interest and the purposes of this title, except that this paragraph shall not require any withdrawal from any account blocked pursuant to regulations issued under section 5(b) of the Trading With the Enemy Act.

(B) If only partial payments are made to Cuba under subparagraph (A), the amounts withheld from Cuba shall be deposited in an account in a banking institution in the United States. Such account shall be blocked in the same manner as any other account containing funds in which Cuba has any interest, pursuant to regulations issued under section 5(b) of the Trading With the Enemy Act.

(4) AUTHORITY OF FEDERAL COMMUNICATIONS COMMISSION.—Nothing in this subsection shall be construed to supersede the authority of the Federal Communications Commission.

(5)[88] PROHIBITION ON INVESTMENT IN DOMESTIC TELECOMMUNICATIONS SERVICES.—Nothing in this subsection shall be construed to authorize the investment by any United States person in the domestic telecommunications network within Cuba. For purposes of this paragraph, an "investment" in the domestic telecommunications network within Cuba includes

[88] Sec. 102(g) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (Public Law 104–114; 110 Stat. 793) added paras. (5) and (6).

the contribution (including by donation) of funds or anything of value to or for, and the making of loans to or for, such network.

(6)[88] REPORTS TO CONGRESS.—The President shall submit to the Congress on a semiannual basis a report detailing payments made to Cuba by any United States person as a result of the provision of telecommunications services authorized by this subsection.

(f) DIRECT MAIL DELIVERY TO CUBA.—The United States Postal Service shall take such actions as are necessary to provide direct mail service to and from Cuba, including, in the absence of common carrier service between the 2 countries, the use of charter service providers.

(g) ASSISTANCE TO SUPPORT DEMOCRACY IN CUBA.—The United States Government may provide assistance, through appropriate nongovernmental organizations, for the support of individuals and organizations to promote nonviolent democratic change in Cuba.

SEC. 1706.[84, 89] **SANCTIONS.**

(a) PROHIBITION ON CERTAIN TRANSACTIONS BETWEEN CERTAIN UNITED STATES FIRMS AND CUBA.—

(1) PROHIBITION.—Notwithstanding any other provision of law, no license may be issued for any transaction described in section 515.559 of title 31, Code of Federal Regulations, as in effect on July 1, 1989.

(2) APPLICABILITY TO EXISTING CONTRACTS.—Paragraph (1) shall not affect any contract entered into before the date of the enactment of this Act.

(b) PROHIBITIONS ON VESSELS.—

(1) VESSELS ENGAGING IN TRADE.—Beginning on the 61st day after the date of the enactment of this Act, a vessel which enters a port or place in Cuba to engage in the trade of goods or services may not, within 180 days after departure from such port or place in Cuba, load or unload any freight at any place in the United States, except pursuant to a license issued by the Secretary of the Treasury.

(2) VESSELS CARRYING GOODS OR PASSENGERS TO OR FROM CUBA.—Except as specifically authorized by the Secretary of the Treasury, a vessel carrying goods or passengers to or from Cuba or carrying goods in which Cuba or a Cuban national has any interest may not enter a United States port.

(3) INAPPLICABILITY OF SHIP STORES GENERAL LICENSE.—No commodities which may be exported under a general license described in section 771.9 of title 15, Code of Federal Regulations, as in effect on May 1, 1992, may be exported under a general license to any vessel carrying goods or passengers to or from Cuba or carrying goods in which Cuba or a Cuban national has an interest.

(4) DEFINITIONS.—As used in this subsection—

(A) the term "vessel" includes every description of water craft or other contrivance used, or capable of being used, as a means of transportation in water, but does not include aircraft;

[89] 22 U.S.C. 6005.

(B) the term "United States" includes the territories and possessions of the United States and the customs waters of the United States (as defined in section 401 of the Tariff Act of 1930 (19 U.S.C. 1401)); and

(C) the term "Cuban national" means a national of Cuba, as the term "national" is defined in section 515.302 of title 31, Code of Federal Regulations, as of August 1, 1992.

(c) RESTRICTIONS ON REMITTANCES TO CUBA.—The President shall establish strict limits on remittances to Cuba by United States persons for the purpose of financing the travel of Cubans to the United States, in order to ensure that such remittances reflect only the reasonable costs associated with such travel, and are not used by the Government of Cuba as a means of gaining access to United States currency.

(d) CLARIFICATION OF APPLICABILITY OF SANCTIONS.—The prohibitions contained in subsections (a), (b), and (c) shall not apply with respect to any activity otherwise permitted by section 1705 or section 1707 of this Act or any activity which may not be regulated or prohibited under section 5(b)(4) of the Trading With the Enemy Act (50 U.S.C. App. 5(b)(4)).

SEC. 1707.[90] POLICY TOWARD A TRANSITIONAL CUBAN GOVERNMENT.

Food, medicine, and medical supplies for humanitarian purposes should be made available for Cuba under the Foreign Assistance Act of 1961 and the Agricultural Trade Development and Assistance Act of 1954 if the President determines and certifies to the Committee on Foreign Affairs[91] of the House of Representatives and the Committee on Foreign Relations of the Senate that the government in power in Cuba—

(1) has made a public commitment to hold free and fair elections for a new government within 6 months and is proceeding to implement that decision;

(2) has made a public commitment to respect, and is respecting, internationally recognized human rights and basic democratic freedoms; and

(3) is not providing weapons or funds to any group, in any other country, that seeks the violent overthrow of the government of that country.

SEC. 1708.[92] POLICY TOWARD A DEMOCRATIC CUBAN GOVERNMENT.

(a) WAIVER OF RESTRICTIONS.—The President may waive the requirements of section 1706 if the President determines and reports to the Congress that the Government of Cuba—

(1) has held free and fair elections conducted under internationally recognized observers;

(2) has permitted opposition parties ample time to organize and campaign for such elections, and has permitted full access to the media to all candidates in the elections;

(3) is showing respect for the basic civil liberties and human rights of the citizens of Cuba;

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[90] 22 U.S.C. 6006.

[91] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

[92] 22 U.S.C. 6007.

(4) is moving toward establishing a free market economic system; and

(5) has committed itself to constitutional change that would ensure regular free and fair elections that meet the requirements of paragraph (2).

(b) POLICIES.—If the President makes a determination under subsection (a), the President shall take the following actions with respect to a Cuban Government elected pursuant to elections described in subsection (a):

(1) To encourage the admission or reentry of such government to international organizations and international financial institutions.

(2) To provide emergency relief during Cuba's transition to a viable economic system.

(3) To take steps to end the United States trade embargo of Cuba.

SEC. 1709.[93] EXISTING CLAIMS NOT AFFECTED.

Except as provided in section 1705(a), nothing in this title affects the provisions of section 620(a)(2) of the Foreign Assistance Act of 1961.[94]

SEC. 1710.[95] ENFORCEMENT.

(a) ENFORCEMENT AUTHORITY.—The authority to enforce this title shall be carried out by the Secretary of the Treasury. The Secretary of the Treasury shall exercise the authorities of the Trading With the Enemy Act in enforcing this title. In carrying out this subsection, the Secretary of the Treasury shall take the necessary steps to ensure that activities permitted under section 1705 are carried out for the purposes set forth in this title and not for purposes of the accumulation by the Cuban Government of excessive amounts of United States currency or the accumulation of excessive profits by any person or entity.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of the Treasury such sums as may be necessary to carry out this title.

(c) PENALTIES UNDER THE TRADING WITH THE ENEMY ACT.—Section 16 of the Trading With the Enemy Act (50 U.S.C. App. 16)[96] is amended—

(1) by striking "That whoever" and inserting "(a) Whoever"; and

(2) by adding at the end the following:

"(b)(1) The Secretary of the Treasury may impose a civil penalty of not more than $50,000 on any person who violates any license, order, rule, or regulation issued under this Act.

"(2) Any property, funds, securities, papers, or other articles or documents, or any vessel, together with its tackle, apparel, furniture, and equipment, that is the subject of a violation under paragraph (1) shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States Government.

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[93] 22 U.S.C. 6008.
[94] For text, see *Legislation on Foreign Relations Through 2004*, vol. I–A.
[95] 22 U.S.C. 6009.
[96] For text, see *Legislation on Foreign Relations Through 2004*, vol. III, sec. J.

"(3) The penalties provided under this subsection may not be imposed for—

"(A) news gathering, research, or the export or import of, or transmission of, information or informational materials; or

"(B) clearly defined educational or religious activities, or activities of recognized human rights organizations, that are reasonably limited in frequency, duration, and number of participants.

"(4) The penalties provided under this subsection may be imposed only on the record after opportunity for an agency hearing in accordance with sections 554 through 557 of title 5, United States Code, with the right to prehearing discovery.

"(5) Judicial review of any penalty imposed under this subsection may be had to the extent provided in section 702 of title 5, United States Code.".

(d) APPLICABILITY OF PENALTIES.—The penalties set forth in section 16 of the Trading With the Enemy Act shall apply to violations of this title to the same extent as such penalties apply to violations under that Act.

(e) OFFICE OF FOREIGN ASSETS CONTROL.—The Department of the Treasury shall establish and maintain a branch of the Office of Foreign Assets Control in Miami, Florida, in order to strengthen the enforcement of this title.

SEC. 1711.[97] DEFINITION.

As used in this title, the term "United States person" means any United States citizen or alien admitted for permanent residence in the United States, and any corporation, partnership, or other organization organized under the laws of the United States.

SEC. 1712.[98] EFFECTIVE DATE.

This title shall take effect on the date of the enactment of this Act.

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DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

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Subtitle D—International Fissile Material and Warhead Control

SEC. 3151. NEGOTIATIONS.

(a) IN GENERAL.—The Congress urges the President to enter into negotiations with member states of the Commonwealth of Independent States, to complement ongoing and future arms reduction negotiations and agreements, with the goal of achieving verifiable agreements in the following areas:

(1) Dismantlement of nuclear weapons.

[97] 22 U.S.C. 6010.
[98] 22 U.S.C. 6001 note.

(2) The safeguard and permanent disposal of nuclear materials.

(3) An end by the United States and member states of the Commonwealth of Independent States to the production of plutonium and highly enriched uranium for nuclear weapons.

(4) The extension of negotiations on these issues to all nations capable of producing nuclear weapons materials.

(b) EXCHANGES OF INFORMATION.—The Congress urges the President, in order to establish a data base on production capabilities of member states of the Commonwealth of Independent States and their stockpiles of fissile materials and nuclear weapons, to seek to achieve agreements with such states to reciprocally release information on—

(1) United States and the member states nuclear weapons stockpiles, including the number of warheads and bombs by type, and schedules for weapons production and dismantlement;

(2) the location, mission, and maximum annual production capacity of United States and member states facilities that are essential to the production of tritium for replenishment of that nation's tritium stockpile;

(3) the inventory of United States and member states facilities dedicated to the production of plutonium and highly enriched uranium for weapons purposes; and

(4) United States and members states stockpiles of plutonium and highly enriched uranium used for nuclear weapons.

(c) TECHNICAL WORKING GROUPS.—The Congress urges the President, in order to facilitate the achievement of agreements referred to in subsection (a), to establish with member states of the Commonwealth of Independent States and with other nations capable of producing nuclear weapons material bilateral or multilateral technical working groups to examine and demonstrate cooperative technical monitoring and inspection arrangements that could be applied to the verification of—

(1) information on mission, location, and maximum annual production capacity of nuclear material production facilities and the size of stockpiles of plutonium and highly enriched uranium;

(2) nuclear arms reduction agreements that would include provisions requiring the verifiable dismantlement of nuclear warheads; and

(3) bilateral or multilateral agreements to halt the production of plutonium and highly enriched uranium for nuclear weapons.

(d) REPORT.—The President shall submit to the Congress, not later than March 31, 1993, a report on the progress made by the President in implementing the actions called for in subsections (a) through (c).

(e) PRODUCTION BY COMMONWEALTH OF INDEPENDENT STATES.—The Congress urges the Presidents of the member states of the Commonwealth of Independent States—

(1) to institute a moratorium on production of plutonium and highly enriched uranium for nuclear weapons; and

(2) to pledge to continue such moratorium for so long as the United States does not produce such materials.

SEC. 3152. AUTHORITY TO RELEASE CERTAIN RESTRICTED DATA.

Section 142 of the Atomic Energy Act of 1954 (42 U.S.C. 2162)[99] is amended by adding at the end the following new subsection:

"f. Notwithstanding any other law, the President may publicly release Restricted Data regarding the nuclear weapons stockpile of the United States if the United States and member states of the Commonwealth of Independent States reach reciprocal agreement on the release of such data.".

SEC. 3153. DEVELOPMENT AND DEMONSTRATION PROGRAM.

(a) PROGRAM.—Of funds authorized to be appropriated in section 3104 for fiscal year 1993 for verification and control activities, $10,000,000 shall be available only to carry out a program—

(1) to develop and demonstrate a means for verifiable dismantlement of nuclear warheads;

(2) to safeguard and dispose of nuclear materials; and

(3) to develop reliable techniques and procedures for verifying a global ban on the production of fissile materials for weapons purposes.

(b) REPORT.—The Secretary shall include a report on such program in budget justification documents submitted to Congress in support of the budget of the Department of Energy for fiscal year 1994. The report shall be submitted in both classified and unclassified form.

SEC. 3154. PRODUCTION OF TRITIUM.

Nothing in this part may be construed as intending to affect the production of tritium.

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TITLE XXXII—NATIONAL SAFETY

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SEC. 3202. NUCLEAR SAFETY IN EASTERN EUROPE AND THE FORMER SOVIET UNION.

(a) FINDINGS.—The Congress finds that—

(1) the Chernobyl nuclear reactor accident on April 26, 1986, has resulted in $283 to $352 billion worth of damage, with more than 4,000,000 people still living on land contaminated with radiation;

(2) there are 16 Chernobyl-type RBMK reactors now operating in Russia, Ukraine, and Lithuania, all of which have faulty designs, poor construction, and dangerously lax and outdated operating procedures;

(3) there are dozens of Soviet-designed reactors now operating in Eastern Europe and the former Soviet Union with poor construction and lax and outdated operating procedures;

(4) a serious nuclear reactor accident in one of the newly freed states of Eastern Europe and the former Soviet Union would seriously exacerbate these states' difficult progress towards economic recovery and could lead to political instability;

[99] For text, see *Legislation on Foreign Relations Through 2004*, vol. IV, sec. L.

(5) retrofitting the RBMK reactors with modern Western safety equipment will result in only marginal safety improvements at great expense; and

(6) alternative power sources, such as natural gas turbines, and modern energy efficiency measures and technologies could displace the need for much of the power which these reactors provide.

(b) UNITED STATES POLICY.—It is the sense of Congress that the President should undertake bilateral and multilateral initiatives, including trade initiatives, to—

(1) assist in bringing on line enough replacement power and modern energy efficiency measures and technologies in the states of Eastern Europe and the former Soviet Union so that the RBMK reactors may be shut down as soon as possible and placed in stable condition to prevent radiological contamination;

(2) assist the states of Eastern Europe and the former Soviet Union in upgrading their other nuclear reactors to Western standards of safety and in ensuring that all of their nuclear reactors receive routine maintenance and repairs;

(3) encourage and provide technical assistance to Russia and Ukraine to enact domestic legislation governing nuclear reactor safety;

(4) negotiate formal agreements for nuclear cooperation with Russia and Ukraine;

(5) identify nuclear safety research as a principal focus of the soon-to-be created nuclear science centers in Ukraine and Russia; and

(6) make greater resources available to the International Atomic Energy Agency to promote programs of nuclear safety in Eastern Europe and the former Soviet Union.

(c)[100] REPORTING REQUIREMENT.—Not later than 60 days after the date of enactment of this Act, the President shall submit to Congress a report with a systematic assessment of the nuclear reactor safety situation in Eastern Europe and the former Soviet Union, with a description of specific bilateral and multilateral initiatives the Administration is taking and plans to take to address these nuclear safety issues.

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DIVISION D—DEFENSE CONVERSION, REINVESTMENT, AND TRANSITION ASSISTANCE

SEC. 4001.[101] SHORT TITLE.

This division may be cited as the "Defense Conversion, Reinvestment, and Transition Assistance Act of 1992".

TITLE XLI—FINDINGS

SEC. 4101.[101] FINDINGS.

Congress makes the following findings:

[100] In a Memorandum of March 4, 1993, for the Secretary of State, the President delegated to the Secretary of State all functions authorized in sec. 3202(c) (58 F.R. 14303; March 17, 1993).
[101] 10 U.S.C. 2491 note.

(1) The collapse of communism in Eastern Europe and the dissolution of the Soviet Union have fundamentally changed the military threat that formed the basis for the national security policy of the United States since the end of World War II.

(2) The change in the military threat presents a unique opportunity to restructure and reduce the military requirements of the United States.

(3) As the United States proceeds with the post-Cold War defense build down, the Nation must recognize and address the impact of reduced defense spending on the military personnel, civilian employees, and defense industry workers who have been the foundation of the national defense policies of the United States.

(4) The defense build down will have a significant impact on communities as procurements are reduced and military installations are closed and realigned.

(5) Despite the changes in the military threat, the United States must maintain the capability to respond to regional conflicts that threaten the national interests of the United States, and to reconstitute forces in the event of an extended conflict.

(6) The skills and capabilities of military personnel, civilian employees of the Department of Defense, defense industry workers, and defense industries represent an invaluable national resource that can contribute to the economic growth of the United States and to the long-term vitality of the national technology and industrial base.

(7) Prompt and vigorous implementation of defense conversion, reinvestment, and transition assistance programs is essential to ensure that the defense build down is structured in a manner that—

(A) enhances the long-term ability of the United States to maintain a strong and vibrant national technology and industrial base; and

(B) promotes economic growth.

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TITLE XLIII—COMMUNITY ADJUSTMENT AND ASSISTANCE PROGRAMS AND YOUTH SERVICE PROGRAMS

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SEC. 4304.[102] LIMITATION ON USE OF EXCESS CONSTRUCTION OR FIRE EQUIPMENT FROM DEPARTMENT OF DEFENSE STOCKS IN FOREIGN ASSISTANCE OR MILITARY SALES PROGRAMS. * * *

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[102] Sec. 4304 added 10 U.S.C. 2552.

s. Department of Defense Appropriations Act, 1993

Partial text of Public Law 102–396 [H.R. 5504], 106 Stat. 1876, approved October 6, 1992; amended by Public Law 103–139 [Department of Defense Appropriations Act, 1994; H.R. 3116], 107 Stat. 1418, approved November 11, 1993; Public Law 103–160 [National Defense Authorization Act for Fiscal Year 1994; H.R. 2401], 107 Stat. 1547, approved November 30, 1993; and by Public Law 107–107 [National Defense Authorization Act for Fiscal Year 2002; S. 1438], 115 Stat. 1012, approved December 28, 2001

AN ACT Making appropriations for the Department of Defense for the fiscal year ending September 30, 1993, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1993, for military functions administered by the Department of Defense, and for other purposes, namely:

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TITLE II

OPERATION AND MAINTENANCE

* * * * * * *

HUMANITARIAN ASSISTANCE

* * * *Provided further,*[1] That where required and notwithstanding any other provision of law, funds made available under this heading for fiscal year 1993 or thereafter, shall be available for emergency transportation of United States or foreign nationals or the emergency transportation of humanitarian relief personnel in conjunction with humanitarian relief operations.

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TITLE IX

GENERAL PROVISIONS

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SEC. 9005.[2] * * * [Repealed—2002]

This Act may be cited as the "Department of Defense Appropriations Act, 1993".

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[1] 10 U.S.C. 401 note.

[2] Formerly at 10 U.S.C. 2241 note. Popularly referred to as the Berry amendment. Sec. 832 of Public Law 107–107 (115 Stat. 1190) modified and enacted into permanent law at 10 U.S.C. 2533a. Sec. 823 of that Act also repealed sec. 8109 of The Department of Defense Appropriations Act, 1997 (sec. 101(b) of title I of Public Law 104–208; 110 Stat. 3009), which provided clarification to sec. 9005.

t. National Defense Authorization Act for Fiscal Years 1992 and 1993 [1]

Partial text of Public Law 102–190 [H.R. 2100], 105 Stat. 1290, approved December 5, 1991; amended by Public Law 102–484 [National Defense Authorization Act for Fiscal Year 1993; H.R. 5006], 106 Stat. 2315, approved October 23, 1992; Public Law 103–160 [National Defense Authorization Act for Fiscal Year 1994; H.R. 5006], 107 Stat. 1547, approved November 30, 1993; Public Law 103–337 [National Defense Authorization Act for Fiscal Year 1995; H.R. 4650], 108 Stat. 2663, approved October 5, 1994; Public Law 104–106 [National Defense Authorization Act for Fiscal Year 1996; S. 1124], 110 Stat. 186, approved February 10, 1996; and by Public Law 105–85 [National Defense Authorization Act for Fiscal Year 1998; H.R. 1119], 111 Stat. 1629, approved November 18, 1997

AN ACT To authorize appropriations for fiscal years 1992 and 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Defense Authorization Act for Fiscal Years 1992 and 1993".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into three divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows: * * *

SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.

For purposes of this Act, the term "congressional defense committees" means the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives.[2]

SEC. 4. EXPIRATION OF AUTHORIZATIONS FOR FISCAL YEARS AFTER 1992.

Authorizations of appropriations, and of personnel strength levels, in this Act for any fiscal year after fiscal year 1992 are effective only with respect to appropriations made during the first session of the One Hundred Second Congress.

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[1] See also partial text of the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991 (Public Law 102–25; 105 Stat. 75).

[2] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

PART A—FUNDING AUTHORIZATIONS

* * * * * * *

SEC. 107. CHEMICAL DEMILITARIZATION PROGRAM.

(a) FUNDING.—Funds are hereby authorized to be appropriated for fiscal year 1992 for the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), in the amount of $472,602,000.

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PART F—OTHER MATTERS

SEC. 151.[3] CHEMICAL WEAPONS STOCKPILE DISPOSAL PROGRAM.

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SEC. 153. LIMITATIONS RELATING TO REDEPLOYMENT OF MINUTEMAN III ICBMS.

(a) PROHIBITION REGARDING OPERATIONALLY DEPLOYED MISSILES.—Funds appropriated for fiscal year 1992 or any fiscal year preceding fiscal year 1992 pursuant to an authorization contained in this or any other Act may not be obligated or expended for the redeployment or transfer of operationally deployed Minuteman III intercontinental ballistic missiles from one Air Force ICBM base to another Air Force ICBM base.

(b) LIMITATION REGARDING STORED MISSILES.—No Minuteman III missile in storage may be transferred to a Minuteman II silo until the Secretary of Defense submits to Congress a plan for the restructuring of the United States strategic forces consistent with the strategic arms reduction talks (START) treaty signed by the United States and the Soviet Union. Such plan shall include—

(1) a discussion of the force structure options that were considered in developing the plan;

(2) for each option, the locations for the Minuteman III ICBMs and Small ICBMs and the number of each such type of missile for each location;

(3) the cost of each such option; and

(4) the reasons for selecting the force structure provided for in the plan.

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TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

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[3] Sec. 151 amended sec. 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521).

PART B—PROGRAM REQUIREMENTS, RESTRICTIONS, AND LIMITATIONS

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SEC. 222. ICBM MODERNIZATION PROGRAM.

(a) FUNDING.—Of the amounts appropriated pursuant to section 201 for fiscal year 1992, not more than $566,444,000 shall be available for the intercontinental ballistic missile (ICBM) modernization program, of which—

(1) not more than $548,838,000 shall be available for the small ICBM (SICBM) program; and

(2) none shall be available for the rail garrison MX (RGMX) program.

(b) LIMITATION.—(1) The funds described in subsection (a)(1) may not be obligated until the Secretary of Defense certifies to the congressional defense committees that a sufficient amount of such funds will be obligated to conduct a viable program of research and development of mobile basing options for the SICBM program consistent with the sense of Congress set forth in section 231(b)(4) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1516).

(2) Not later than 90 days after the date on which the Secretary makes a certification under paragraph (1), the Secretary shall submit to the congressional defense committees a report describing—

(A) the revised research and development program for SICBM mobile basing options;

(B) the amount of the funds that the Secretary intends to obligate in each of fiscal years 1992 through 1997 for such program; and

(C) the earliest date on which a SICBM mobile basing option will be available in the event that conditions warrant a rebasing of the missile from existing Minuteman ICBM silos.

(c) REPORT.—Not later than March 1, 1992, the Secretary of Defense shall submit to the congressional defense committees a report on the cost and practicality of extending the service life of existing Minuteman III ICBMs beyond the year 2010.

(d) AVAILABILITY OF UNOBLIGATED FISCAL YEAR 1991 FUNDS.—(1) Of the balance of the amount appropriated for the Air Force for fiscal year 1991 for research, development, test, and evaluation for ICBM modernization that remains available for obligation, $17,500,000 may, to the extent provided in appropriations Acts, be used during fiscal year 1992 for obligation for the procurement of MX missiles.

(2) The authority provided in paragraph (1) does not extend the period of the availability for obligation of the funds referred to in that paragraph.

(3) The authority provided in paragraph (1) is in addition to any other transfer authority provided in this or any other Act.

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PART E—OTHER MATTERS

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SEC. 255. CONTINUED COOPERATION WITH JAPAN ON TECHNOLOGY RESEARCH AND DEVELOPMENT.

Of the funds authorized to be appropriated pursuant to section 201 for research, development, test, and evaluation for fiscal year 1992, and made available for basic research, exploratory development, and advanced technology, $10,000,000 shall be available for such fiscal year for research and development projects conducted jointly by the United States and Japan in accordance with section 1454(d) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1695).

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TITLE III—OPERATION AND MAINTENANCE

PART A—AUTHORIZATIONS OF APPROPRIATIONS

SEC. 301. OPERATION AND MAINTENANCE FUNDING.

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal year 1992 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance in amounts as follows:

* * *

(14) For Drug Interdiction and Counter-Drug Activities, Defense, $1,158,600,000.

* * *

(17) For Humanitarian Assistance, $13,000,000.

(b) * * *

(c) AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1993.—Funds are hereby authorized to be appropriated for fiscal year 1993 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance in amounts as follows:

* * *

(13) For Drug Interdiction and Counter-Drug Activities, Defense, $1,249,400,000.

* * *

(16) For Humanitarian Assistance, $13,000,000.

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SEC. 304.[4] HUMANITARIAN ASSISTANCE.

(a) PURPOSE.—(1) Funds appropriated pursuant to the authorization in section 301(a)(17) for humanitarian assistance shall be used for the purpose of providing transportation for humanitarian relief for persons displaced or who are refugees because of the invasion of Afghanistan by the Soviet Union.

(2) Of the funds authorized to be appropriated for fiscal year 1992 pursuant to such section for such purpose, not more than $3,000,000 shall be available for distribution of humanitarian relief supplies to displaced persons or refugees who are noncombatants,

[4] See 10 U.S.C. 2551. See also sec. 304 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2361). Sec. 304(e) of that Act struck out subsec. (f) of this section, relating to reports to Congress.

including those affiliated with the Cambodian non-Communist resistance, at or near the border between Thailand and Cambodia.

(b) AUTHORITY TO TRANSFER FUNDS.—The Secretary of Defense may transfer to the Secretary of State not more than $3,000,000 of the funds appropriated pursuant to such section for fiscal year 1992 for humanitarian assistance, other than the funds described in subsection (a)(2), to provide for—

(1) the payment of administrative costs incurred in providing the transportation described in subsection (a); and

(2) the purchase or other acquisition of transportation assets for the distribution of humanitarian relief supplies in the country of destination.

(c) TRANSPORTATION UNDER DIRECTION OF THE SECRETARY OF STATE.—Transportation for humanitarian relief provided with funds appropriated pursuant to such section for humanitarian assistance shall be provided under the direction of the Secretary of State.

(d) MEANS OF TRANSPORTATION TO BE USED.—Transportation for humanitarian relief provided with funds appropriated pursuant to such section for humanitarian assistance shall be provided by the most economical commercial or military means available, unless the Secretary of State determines that it is in the national interest of the United States to provide transportation other than by the most economical means available. The means used to provide such transportation may include the use of aircraft and personnel of the reserve components of the Armed Forces.

(e) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to such section for humanitarian assistance shall remain available until expended, to the extent provided in appropriation Acts.

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PART D—OTHER MATTERS

SEC. 341.[5] ANNUAL REPORT ON DEFENSE CAPABILITIES AND PROGRAMS OF THE ARMED FORCES. * * *

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TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

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PART C—DEFENSE INDUSTRIAL AND TECHNOLOGY BASE INITIATIVES

SEC. 821.[6] DEVELOPMENT OF CRITICAL TECHNOLOGIES. * * *

* * * * * * *

[5] Sec. 341 amended 10 U.S.C. 113(i)(2).

[6] Sec. 821 added secs. 2521, 2523–2526, and redesignated sec. 2508 as 2522 of 10 U.S.C., as chapter 150—Development of Dual-Use Critical Technologies. Secs. 2525 and 2526, establishing the Office for Foreign Defense Critical Technology Monitoring and Assessment, and the overseas foreign critical technology monitoring and assessment financial assistance program, have been redesignated as secs. 2517–2518, respectively.

SEC. 828.[7] UNITED STATES-JAPAN MANAGEMENT TRAINING PROGRAMS. * * *

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PART D—OTHER DEFENSE INDUSTRIAL BASE MATTERS

SEC. 831. REQUIREMENT FOR SUBMITTAL OF PLANS RELATING TO THE IMPROVEMENT OF THE DEFENSE INDUSTRIAL BASE.

(a) EVALUATION OF USE OF FOREIGN COMPONENTS BY DEFENSE INDUSTRIAL BASE.—(1) The Secretary of Defense shall submit to the congressional defense committees a plan for the collection and assessment of information on the extent to which the defense industrial base of the United States—

(A) procures subsystems of weapon systems, components of weapon systems, and components of subsystems of weapon systems from foreign sources; and

(B) is dependent upon those foreign sources for the procurement of such subsystems and components.

(2) The report shall be prepared in coordination with the Secretary of Commerce and the United States Trade Representative.

(3) The report shall be submitted not later than March 15, 1992.

(b) IDENTIFICATION OF BARRIERS TO INTEGRATION OF COMMERCIAL AND DEFENSE INDUSTRIAL BASE.—(1) The Secretary of Defense shall submit to the congressional defense committees a plan for the removal of barriers to the effective integration of the commercial and defense sectors of the industrial base of the United States.

(2) The plan shall include—

(A) the Secretary's recommendations for any legislation necessary to remove those barriers;

(B) a discussion of the actions to be taken by the Secretary to remove those barriers; and

(C) a summary of the information relied on in the development of the plan.

(3) The Secretary shall designate an official within the Office of the Secretary of Defense to develop the plan. In developing the plan, that official shall, in consultation with appropriate representatives of other departments and agencies of the Federal Government, State and local governments, and the private sector, identify and evaluate—

(A) the areas of industrial production in which a greater integration of commercial and defense activities would be beneficial for national defense purposes;

(B) any Federal, State, and local statutes, regulations, and policies that are barriers to the integration of those activities; and

(C) the actions necessary to remove the barriers to the integration of those activities.

(4) The report shall be submitted not later than September 30, 1992.

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[7] Sec. 828 added 10 U.S.C. 2198—Management training program in Japanese language and culture.

SEC. 832.[8] REQUIREMENTS RELATING TO EUROPEAN MILITARY PROCUREMENT PRACTICES.

(a) EUROPEAN PROCUREMENT PRACTICES.—The Secretary of Defense shall—

(1) compute the total value of American-made military goods and services procured each year by European governments or companies;

(2) review defense procurement practices of European governments to determine what factors are considered in the selection of contractors and to determine whether American firms are discriminated against in the selection of contractors for purchases by such governments of military goods and services; and

(3) establish a procedure for discussion with European governments about defense contract awards made by them that American firms believe were awarded unfairly.

(b) DEFENSE TRADE AND COOPERATION WORKING GROUP.—The Secretary of Defense shall establish a defense trade and cooperation working group. The purpose of the group is to evaluate the impact of, and formulate United States positions on, European initiatives that affect United States defense trade, cooperation, and technology security. In carrying out the responsibilities of the working group, members of the group shall consult, as appropriate, with personnel in the Departments of State and Commerce and in the Office of the United States Trade Representative.

(c) GAO REVIEW.—The Comptroller General shall conduct a review to determine how the members of the North Atlantic Treaty Organization are implementing their bilateral reciprocal defense procurement memoranda of understanding with the United States. The Comptroller General shall complete the review, and submit to Congress a report on the results of the review, not later than February 1, 1992.

SEC. 833.[9] BUY AMERICAN ACT WAIVER RESCISSIONS.

(a) DETERMINATION BY THE SECRETARY OF DEFENSE.—(1) If the Secretary of Defense, after consultation with the United States Trade Representative, determines that a foreign country which is party to an agreement described in paragraph (2) has violated the terms of the agreement by discriminating against certain types of products produced in the United States that are covered by the agreement, the Secretary of Defense shall rescind the Secretary's blanket waiver of the Buy American Act with respect to such types of products produced in that foreign country.

(2) An agreement referred to in paragraph (1) is any reciprocal defense procurement memorandum of understanding between the

[8] 10 U.S.C. 113 note. Sec. 1031(18) of Public Law 106–65 (113 Stat. 750) made sec. 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 (Public Law 104–66; 31 U.S.C. 1113 note), as amended, which provided that "each provision of law requiring the submittal to Congress (or any committee of the Congress) of any annual, semiannual, or other regular periodic report specified * * * shall cease to be effective, with respect to that requirement, May 15, 2000.", inapplicable to this section. For Public Law 104–66 and other legislation on the repeal of reporting requirements, see *Legislation on Foreign Relations Through 2004*, vol. IV.

[9] Former 41 U.S.C. 10b–2. See new 41 U.S.C. 10b–2 at sec. 8042 of Department of Defense Appropriations Act, 1997 (sec. 101(b) of title I of Public Law 104–208; 110 Stat. 3009).

United States and a foreign country pursuant to which the Secretary of Defense has prospectively waived the Buy American Act for certain products in that country.

(b) REPORT TO CONGRESS.—The Secretary of Defense shall submit to Congress a report on the amount of Department of Defense purchases from foreign entities in fiscal years 1992 and 1993. Such report shall separately indicate the dollar value of items for which the Buy American Act was waived pursuant to any agreement described in subsection (a)(2), the Trade Agreement Act of 1979 (19 U.S.C. 2501 et seq.), or any international agreement to which the United States is a party.

(c) BUY AMERICAN ACT DEFINED.—For purposes of this section, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

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TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

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PART C—INTELLIGENCE MATTERS

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SEC. 924.[10] DEPARTMENT OF DEFENSE USE OF NATIONAL INTELLIGENCE COLLECTION SYSTEMS.

(a) PROCEDURES FOR USE.—The Secretary of Defense, after consultation with the Director of Central Intelligence, shall prescribe procedures for regularly and periodically exercising national intelligence collection systems and exploitation organizations that would be used to provide intelligence support, including support of the combatant commands, during a war or threat to national security.

(b) USE IN JOINT TRAINING EXERCISES.—In accordance with procedures prescribed under subsection (a), the Chairman of the Joint Chiefs of Staff shall provide for the use of the national intelligence collection systems and exploitation organizations in joint training exercises to the extent necessary to ensure that those systems and organizations are capable of providing intelligence support, including support of the combatant commands, during a war or threat to national security.

(c) REPORT.—Not later than May 1, 1992, the Secretary of Defense and the Director of Central Intelligence shall submit to the congressional defense committees, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives a joint report—

(1) describing the procedures prescribed under subsection (a); and

(2) stating the assessment of the Chairman of the Joint Chiefs of Staff of the performance in joint training exercises of the national intelligence collection systems and the Chairman's

[10] 10 U.S.C. 113 note.

recommendations for any changes that the Chairman considers appropriate to improve that performance.

TITLE X—GENERAL PROVISIONS

PART A—FINANCIAL AND BUDGET MATTERS

SEC. 1001. TRANSFER AUTHORITY.

(a) AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 1992 between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations that the Secretary of Defense may transfer under the authority of this section may not exceed $2,250,000,000.

(b) LIMITATIONS.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) EFFECT ON AUTHORIZATION AMOUNTS.—A transfer made from one account to another under the authority of this section shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(d) NOTICE TO CONGRESS.—The Secretary of Defense shall promptly notify Congress of transfers made under the authority of this section.

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PART B—NAVAL VESSELS AND RELATED MATTERS

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SEC. 1014. REPORT ON CRITERIA USED BY NAVY FOR RECOMMENDING APPROVAL OF SUBMARINE EXPORT LICENSE.

Not later than four months after the date of the enactment of this Act, the Secretary of the Navy shall submit to the congressional defense committees a report on the matters that would be taken into account and the criteria that would be used by the Secretary in determining whether to recommend to the Secretary of State that a license for the export of a submarine constructed in the United States be granted to the applicant for the license.

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PART D—MATTERS RELATED TO ALLIES AND OTHER NATIONS

SEC. 1041. SENSE OF CONGRESS REGARDING UNITED STATES TROOPS IN EUROPE.

It is the sense of Congress that—

(1) the United States has a strong interest in continuing and strengthening the North Atlantic Treaty Organization (NATO) to preserve world peace and security and to aid in the transition to a Europe that is whole and free;

(2) the United States should work with its NATO allies to adapt NATO to better respond to the changing world situation, which includes—

(A) the dissolution of the Warsaw Pact as a military and political alliance;

(B) the reduction in the threat of attack on western Europe posed by the Soviet Union;

(C) the reduction in the amount of financial resources that the United States is able to devote to defense spending; and

(D) the improved ability of other member nations of NATO to carry a greater share of the common NATO defense burden;

(3) barring unforeseen developments which result in a substantial increase in the threat to the national security of the United States, the Armed Forces should plan for an end strength level of members of the Armed Forces assigned to permanent duty ashore in European member nations of NATO that should not exceed approximately 100,000 members by the end of fiscal year 1995; and

(4) a principal function of the members so assigned should be to facilitate the rapid and large-scale reception of reinforcing United States troops in the event of a military necessity.

SEC. 1042.[11] REDUCTION IN AUTHORIZED END STRENGTH FOR THE NUMBER OF MILITARY PERSONNEL IN EUROPE. * * *

SEC. 1043. STRATEGIC FRAMEWORK AND DISTRIBUTION OF RESPONSIBILITIES FOR THE SECURITY OF ASIA AND THE PACIFIC.

(a) FINDINGS.—Congress makes the following findings:

(1) The alliance between the United States and its allies in East Asia contributes greatly to the security of that region.

(2) It is in the national interest of the United States to maintain a forward military and naval presence in East Asia.

(3) The pace of economic, political, and social advances in many of the East Asian countries, particularly Japan and South Korea, continues to accelerate.

(4) As a result of such advances the capacity of those countries to contribute to the responsibilities for their own defense has increased dramatically.

(5) While the level of defense burdensharing by Japan and South Korea has increased, continued acceleration of the rate of transfer of that burden is desirable.

(6) The United States remains committed to the security of its friends and allies in Asia and the Pacific Rim region.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

[11] Sec. 1042 amended sec. 1002(c)(1) of the Department of Defense Authorization Act, 1985 (22 U.S.C. 1928 note).

(1) the United States should regularly review the missions, force structure, and locations of its military forces in Asia and the Pacific, including Hawaii;

(2) the United States should also regularly review its basing structure in the Pacific and Asia, with special attention to developments in the Philippines, Japan, and South Korea, and determine basing, forward deployments, maritime and land base prepositioning, amphibious forces, and strategic lift to meet evolving strategic needs;

(3) the United States should regularly review the threats and potential threats to regional peace, the United States, and its friends and allies;

(4) the United States should continue to assess the feasibility and desirability of the ongoing partial, gradual reduction of military forces in Asia and the Pacific;

(5) in view of the advances referred to in subsection (a)(3), Japan and South Korea should continue to assume increased responsibility for their own security and the security of the region;

(6) Japan and South Korea should continue to offset the direct costs incurred by the United States in deploying military forces for the defense of those countries including costs related to the presence of United States military forces in those countries; and

(7) Japan should continue to contribute to improvements to global stability by contributing to countries in regions of importance to world stability through the Official Development Assistance Program of Japan.

(c) REPORT REQUIRED.—Not later than April 1, 1992, the President shall submit to the congressional defense committees, the Committee on Foreign Relations of the Senate, and the Committee on Foreign Affairs [12] of the House of Representatives a report on the strategic posture and military force structure of the United States in Asia and the Pacific, including the forces in Hawaii. The President shall include in such report a strategic plan relating to the continued United States presence in that region.

(d) CONTENT OF REPORT.—The report required by subsection (c) shall specifically include the following matters:

(1) An assessment of the trends in the regional military balance involving potential threats to the United States and its allies and friends in Asia and the Pacific, with special attention to—

(A) the implications of recent developments in the Soviet Union and the People's Republic of China for United States and allied security planning in Asia and the Pacific; and

(B) regional conflicts, such as the struggle in Cambodia.

(2) An assessment of the trends in acquiring and deploying nuclear, biological, and chemical weapons and long range missiles and other delivery systems and other destabilizing transfers of arms and technology.

[12] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

(3) An assessment of the extent to which a requirement continues to exist for a regional security role for the United States in East Asia.

(4) An identification of any changes—

(A) in the missions, force structure, and locations of United States military forces in Asia and the Pacific that could strengthen the capabilities of such forces and lower the costs of maintaining such forces; and

(B) in contingency and reserve armed forces in the United States and other areas.

(5) A review of the United States basing structure in the Pacific and Asia with special attention to developments in the Philippines, Japan, and South Korea, including a review of the implications for basing, forward deployments, maritime, and land base prepositioning, amphibious forces, and strategic lift to meet evolving strategic needs.

(6) A discussion of the strategic implications of the departure of United States forces from Clark Air Force Base and of the remaining facilities in the Philippines.

(7) A discussion of the need for expanding the United States access to facilities in Singapore and other states in East Asia that are friendly to the United States.

(8) A discussion of the recent trends in the contributions to burdensharing and the common defense being made by the friends and allies of the United States in Asia and the ways in which increased defense responsibilities and costs presently borne by the United States can be transferred to the friends and allies of the United States in Asia and the Pacific.

(9) An assessment of the feasibility of relocating United States military personnel and facilities in Japan and South Korea to reduce friction between such personnel and the people of those countries.

(10) A discussion of any changes in bilateral command arrangements that would facilitate a transfer of military missions and command to allies of the United States in East Asia.

(11) A discussion of the changes in—

(A) the flow of arms and military technology between the United States and its friends and allies;

(B) the balance of trade in arms and technology; and

(C) the dependence and interdependence between the United States and its friends and allies in military technology.

SEC. 1044. UNITED STATES TROOPS IN KOREA.

(a) FINDINGS.—Congress makes the following findings:

(1) The United States plans to reduce its troop presence in the Republic of Korea to 36,500 personnel by the end of 1992.

(2) The Department of Defense has not announced specific plans for further personnel reductions below that level.

(3) The National Unification Board of South Korea estimates the gross national product (GNP) of North Korea to have been $21,000,000,000 in 1989, while the Bank of Korea estimates that the size of the Republic of Korea's economy in that year was $210,000,000,000, a factor of 10 larger. At its current

growth rate, as estimated by the Economic Planning Board of the Republic of Korea, the annual expansion of the economy of the Republic of Korea is nearly equivalent in size to the entire North Korean economy.

(4) The Republic of Korea continues to face a substantial military threat from North Korea that requires a vigorous response on both military and diplomatic levels.

(5) The Republic of Korea has decided to increase its level of host nation support, although such support still falls short of the actual cost involved and short of the relative level provided by the Government of Japan.

(6) While recognizing that the Republic of Korea has consistently increased its defense budget in real terms by an average of about 6 percent annually for the past five years, to a current level of 4.2 percent of gross national product, the Republic of Korea devotes a smaller share of its economy to defense than does the United States, at 4.9 percent of gross national product.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) the Republic of Korea remains an important ally of the United States, with the two countries sharing important political, economic, and security interests;

(2) commensurate with the security situation on the Korean peninsula and the size and vitality of the economy of the Republic of Korea—

(A) the Department of Defense should consider whether future reductions of United States military forces from the Republic of Korea beyond those now planned to be completed by the end of 1992 can be made in a way that does not undermine the credibility or effectiveness of those forces against an attack by North Korea; and

(B) the Republic of Korea should undertake greater efforts to meet its security requirements, particularly in the area of force modernization; and

(3) the Government of the Republic of Korea should increase the level of host nation support it provides to United States forces in the area so that its relative level more closely approximates that of Japan.

(c) PRESIDENTIAL REPORT.—(1) The President shall transmit to Congress, either separately or as part of another relevant report, a report on the overall security situation on the Korean peninsula, the implications of relevant political and economic developments in the area for the security situation there, and United States policy for the area.

(2) Issues covered in the report shall include—

(A) a qualitative and quantitative assessment of the military balance on the Korean peninsula;

(B) a description of the material requirements of the armed forces of the Republic of Korea;

(C) a description of United States military personnel requirements;

(D) a description of the state of United States-Republic of Korea relations, the state of China-Republic of Korea relations, and the state of Soviet-Republic of Korea relations; and

(E) a description of prospects for change in North Korea.

(3) The report shall be transmitted not later than June 30, 1992, and shall be transmitted in both classified and unclassified form.

SEC. 1045.[13] **BURDENSHARING CONTRIBUTIONS BY JAPAN, KUWAIT, AND THE REPUBLIC OF KOREA.** * * * [Redesignated to 10 USC 2350j—1993]

SEC. 1046.[14] **DEFENSE COST-SHARING.**

(a) DEFENSE COST-SHARING AGREEMENTS.—(1) The President shall consult with the foreign nations described in paragraph (2) to seek to achieve, within 12 months after the date of the enactment of this Act, an agreement on equitable defense cost-sharing with each such nation.

(2) The foreign nations referred to in paragraph (1) are—

(A) each member nation of the North Atlantic Treaty Organization (other than the United States); and

(B) every other foreign nation with which the United States has a bilateral or multilateral defense agreement that provides for the assignment of combat units of the Armed Forces of the United States to permanent duty in the nation or the placement of combat equipment of the United States in the nation.

(3) Each defense cost-sharing agreement entered into under paragraph (1) should provide that the foreign nation agrees to share equitably with the United States, through cash compensation or in-kind contributions, or a combination thereof, the costs to the United States that arise solely from the implementation of the provisions of the bilateral or multilateral defense agreement with that nation.

(b) EXCEPTION.—The provisions of subsection (a) shall not apply to those foreign nations that receive assistance under section 23 of the Arms Export Control Act (22 U.S.C. 2763) relating to the foreign military financing program or under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.) relating to the Economic Support Fund.

(c) CONSULTATIONS.—In conducting the consultations required under subsection (a), the President should make maximum feasible use of the Department of Defense and the post of Ambassador-at-Large created by section 8125(c) of the Department of Defense Appropriations Act, 1989 (10 U.S.C. 113 note).

(d) ALLIES MUTUAL DEFENSE PAYMENTS ACCOUNT.—The Secretary of Defense shall maintain an accounting for defense cost-sharing under each agreement entered into with a foreign nation pursuant to subsection (a). The accounting shall show for each foreign nation the amount and nature of the—

(1) cost-sharing contributions agreed to by the nation;

(2) cost-sharing contributions delivered by the nation;

(3) additional contributions by the nation to any commonly funded multilateral programs providing for United States participation in the common defense;

(4) contributions by the United States to any such commonly funded multilateral programs;

[13] The revised text of sec. 1045 was incorporated into 10 U.S.C. at section 2350j by sec. 1402(a) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1825).

[14] 22 U.S.C. 1928 note.

(5) contributions of all other nations to any such commonly funded multilateral programs; and

(6) costs to the United States that arise solely from the implementation of the provisions of the bilateral or multilateral defense agreement with the nation.

(e) REPORTING REQUIREMENTS.—The Secretary of Defense shall include in each Report on Allied Contributions to the Common Defense prepared under section 1003 of Public Law 98–525 (22 U.S.C. 1928 note) information, in classified and unclassified form—

(1) describing the efforts undertaken and the progress made by the President in carrying out subsections (a) and (c) during the period covered by the report;

(2) specifying the accounting of defense cost-sharing contributions maintained under subsection (d) during that period; [15]

(3) assessing how equitably foreign nations not described in subsection (a) or excepted under subsection (b) are sharing the costs and burdens of implementing defense agreements with the United States and how those defense agreements serve the national security interests of the United States; and [15]

(4) [15] specifying the incremental costs to the United States associated with the permanent stationing ashore of United States forces in foreign nations.

(f) [16] INCREMENTAL COSTS DEFINED.—In this section, the term "incremental costs", with respect to permanent stationing ashore of United States forces in foreign nations, means the difference between the costs associated with maintaining United States military forces in assignments to permanent duty ashore in the foreign nations and the costs associated with maintaining those same military forces at military bases in the United States.

SEC. 1047.[17] USE OF CONTRIBUTIONS OF FRIENDLY FOREIGN COUNTRIES AND NATO FOR COOPERATIVE DEFENSE PROJECTS. * * *

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SEC. 1049.[18] EXTENSION OF AUTHORITY FOR TRANSFER OF EXCESS DEFENSE ARTICLES TO CERTAIN COUNTRIES. * * *

SEC. 1050.[19] AUTHORITY OF SECRETARY OF DEFENSE IN CONNECTION WITH COOPERATIVE AGREEMENTS ON AIR DEFENSE IN ITALY.

(a) AUTHORITY TO CARRY OUT AGREEMENTS.—The Secretary of Defense is authorized to carry out the Italian air defense agreements. In carrying out those agreements, the Secretary—

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[15] Sec. 1412(b) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1829) struck out "and" at the end of para. (2); struck out a period at the end of para. (3), inserting in lieu thereof "; and", and added a new para. (4).

[16] Sec. 1313(e) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2895) added subsec. (f).

[17] Sec. 1047(a) added a new 10 U.S.C. 2350i—Foreign Contributions for Cooperative Projects.

[18] Sec. 1049(a) amended the authority of sec. 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j). For text, see *Legislation on Foreign Relations Through 2004*, vol. I–A.

[19] Sec. 8119 of the Department of Defense Appropriations Act, 1994 (Public Law 103–139; 107 Stat. 1466), provided the following:

"SEC. 8119. The Secretary of Defense is authorized to use, for foreign military sales otherwise authorized under Chapter 39, title 22, United States Code, or for transfer to United States Army, Army National Guard, or Army Reserves, articles and services procured for the implementation of the Italian air defense agreements: *Provided,* That the term 'Italian air defense agreements' has the meaning given such term in section 1050 of Public Law 102–190 (105 Stat.

(1) may provide without monetary charge to the Republic of Italy articles and services as specified in the agreements; and

(2) may accept from the Republic of Italy (in return for the articles and services provided under paragraph (1)) articles and services as specified in the agreements.

(b) ADMINISTRATION OF AGREEMENTS.—In connection with the administration of the Italian air defense agreements, the Secretary of Defense may—

(1) waive any surcharge for administrative services otherwise chargeable under section 21(e)(1)(A) of the Arms Export Control Act (22 U.S.C. 2761(e)(1)(A));

(2) waive any charge not otherwise waived for services associated with contract administration for the sale under the Arms Export Control Act of Patriot air defense missile fire units or components thereof to the Republic of Italy contemplated in the agreements; and

(3) use, to the extent contemplated in the agreements, the North Atlantic Treaty Organization (NATO) Maintenance and Supply Agency—

(A) for the supply of logistic support in Europe for the Patriot missile system; and

(B) for the acquisition of such logistic support, to the extent that the Secretary determines that the procedures of that agency governing such supply and acquisition are appropriate.

(c) AUTHORITY SUBJECT TO AVAILABILITY OF APPROPRIATIONS.—The authority of the Secretary of Defense to enter into contracts under the Italian air defense agreements is available only to the extent that appropriated funds are otherwise available for that purpose.

(d) DEFINITION.—For the purposes of this section, the term "Italian air defense agreements" means—

(1) the agreement entitled "Memorandum of Understanding Between the Secretary of Defense of the United States of America and the Minister of Defense of the Italian Republic on Cooperative Measures for Enhancing Air Defense in Italy", signed on March 24, 1988; and

(2) the agreement entitled "Implementing Agreement to the Memorandum of Understanding Between the Secretary of Defense of the United States of America and the Minister of Defense of the Italian Republic on Cooperative Measures for Enhancing Air Defense in Italy", signed on April 20, 1990.

SEC. 1051.[20] EXTENSION OF AWACS AUTHORITY. * * *

SEC. 1052. TRAINING OF SPECIAL OPERATIONS FORCES WITH FRIENDLY FOREIGN FORCES.

(a)[21] AUTHORITY TO PAY TRAINING EXPENSES.— * * *

1469): *Provided further,* That upon notification of the Government of the United States by the Government of Italy of its desire to withdraw from the Italian air defense agreement or 180 days from the enactment of this Act [enacted November 11, 1993], section 1050 of Public Law 102–190 (105 Stat. 1469) is repealed.".

[20] Sec. 1051 amended 10 U.S.C. 2350e.

[21] Sec. 1052(a) added a new 10 U.S.C. 2011—Special Operations Forces: Training With Friendly Foreign Forces.

(b)[22] BUDGETING FOR TRAINING.—* * *

SEC. 1053.[23] EXPANSION OF COUNTRIES ELIGIBLE TO PARTICIPATE IN FOREIGN COMPARATIVE TESTING PROGRAM. * * *

SEC. 1054. LIMITATION ON EMPLOYMENT OF FOREIGN NATIONALS AT MILITARY INSTALLATIONS OUTSIDE THE UNITED STATES.

(a) AUTHORIZATION.—The number of employment positions on the last day of fiscal years 1992 and 1993 at United States military installations located outside the United States that may be filled by foreign nationals who are employed pursuant to an indirect-hire civilian personnel agreement and are paid by the United States may not exceed the following:

(1) For fiscal year 1992, 60,000.

(2) For fiscal year 1993, 47,750.

(b) WAIVER AUTHORITY.—The Secretary of Defense may waive the requirement of subsection (a) for a fiscal year if the Secretary determines that the national security interests of the United States require waiver of such requirement. The Secretary shall notify Congress of any use of this waiver authority and the reasons for the waiver.

(c) SENSE OF CONGRESS.—It is the sense of Congress that, beginning with fiscal year 1994, the President should achieve reductions (below fiscal year 1993 levels) in the cost to the United States of salaries and other remuneration of foreign nationals employed at United States military installations located outside the United States through agreements under which the host countries assume a greater share of these costs.

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PART F—CONGRESSIONAL FINDINGS, POLICIES, AND COMMENDATIONS

SEC. 1071. SENSE OF CONGRESS RELATING TO THE CONTRIBUTIONS TO OPERATION DESERT STORM MADE BY THE DEFENSE-RELATED INDUSTRIES OF THE UNITED STATES.

(a) FINDINGS.—Congress makes the following findings:

(1) The United States and its coalition allies achieved a great victory in Operation Desert Storm, carried out in the Persian Gulf region in the winter of 1991.

(2) The outstanding success of Operation Desert Storm was due in great measure to the ready availability of weapons and weapon systems exhibiting remarkable accuracy through advanced technological design.

(3) These weapons and weapon systems were designed and produced by the defense-related industries of the United States.

(4) The battle plan for Operation Desert Storm formulated by the commander of the United States Central Command relied on the availability and performance of these weapons and weapon systems.

(5) The successful use of these weapons and weapon systems in accordance with that plan resulted in astonishingly small

[22] Sec. 1052(b) amended 10 U.S.C. 166.
[23] Sec. 1053 amended 10 U.S.C. 2350a(g).

numbers of killed and wounded among the Armed Forces of the United States and of allied coalition forces in general.

(b) SENSE OF CONGRESS.—It is the sense of Congress—

(1) that the defense-related industries of the United States, and the men and women who work in those industries, deserve the gratitude and appreciation of the Congress and of the United States for the design and production of the technologically-advanced weapons and weapon systems that helped to ensure victory in Operation Desert Storm;

(2) that future decisions relating to the national security of the United States must take into account the need to maintain strong defense-related industries in the United States; and

(3) that it is vitally important to the United States that the defense-related industries of the United States be capable of responding to the national security requirements of the United States.

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SEC. 1074. SENSE OF CONGRESS RELATING TO THE CHEMICAL DECONTAMINATION TRAINING FACILITY, FORT MCCLELLAN, ALABAMA.

(a) FINDINGS.—Congress makes the following findings:

(1) The possibility of use of chemical weapons by Iraqi forces was the most significant military threat confronted by members of the Armed Forces of the United States who served in the Persian Gulf region in connection with Operation Desert Storm.

(2) There continues to be extreme concern with respect to the ever more rapid proliferation of chemical weapons and agents, especially among nations in the Middle East.

(3) This proliferation makes it increasingly necessary that members of the Armed Forces have the capability of self-defense against chemical weapons and agents.

(4) Combat training with live chemical agents directly promotes this capability by reducing the life-threatening fear and self doubt that some soldiers experience on a battlefield contaminated by chemical weapons or agents.

(5) Such training further promotes this capability by enhancing the professional credibility of the members of the Armed Forces who train others with respect to chemical weapons and agents.

(6) The Chemical Decontamination Training Facility (CDTF) located at Fort McClellan, Alabama, is the only facility for conducting combat training with live chemical agents in the Western Hemisphere.

(7) The operations of the Chemical Decontamination Training Facility depend upon the support activities of the Army Chemical School which is also located at Fort McClellan, Alabama.

(8) The Defense Base Closure and Realignment Commission has reported that the closure or diminished operation of the Chemical Decontamination Training Facility could have an adverse impact on the capability of the Armed Forces to defend

against the use of chemical weapons and agents and, thus, on the national security of the United States.

(9) The capability of members of the Armed Forces to defend against chemical weapons and agents depends upon maintaining a fully operating facility for conducting combat training with live chemical agents located in the Western Hemisphere including maintaining associated support activities.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the necessity for the Armed Forces to have an effective live chemical agent training facility requires that the Chemical Decontamination Training Facility and the Army Chemical School be continued in operation at Fort McClellan, Alabama, unless a new facility for conducting combat training with live chemical agents is constructed.

SEC. 1075. POLICY REGARDING CONTRACTING WITH FOREIGN FIRMS THAT PARTICIPATE IN THE SECONDARY ARAB BOYCOTT.

(a) RESTATEMENT OF POLICY REGARDING TRADE BOYCOTTS.—As stated in section 3(5)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2402(5)(A)), it is the policy of the United States to oppose restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries friendly to the United States or against any other United States person.

(b) SENSE OF CONGRESS.—Consistent with the policy referred to in subsection (a), it is the sense of Congress that—

(1) no Department of Defense prime contract should be awarded to a foreign person unless that person certifies to the Secretary of Defense that it does not comply with the secondary Arab boycott of Israel; and

(2) the Secretary of Defense should consider developing a procurement policy to implement the policy expressed in paragraph (1).

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PART G—MISCELLANEOUS MATTERS

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SEC. 1082.[24] DISCLOSURE OF INFORMATION CONCERNING UNACCOUNTED FOR UNITED STATES PERSONNEL OF THE COLD WAR, THE KOREAN CONFLICT, AND THE VIETNAM ERA.

(a) PUBLIC AVAILABILITY OF INFORMATION.—(1) Except as provided in subsection (b), the Secretary of Defense shall, with respect to any information referred to in paragraph (2), place the information in a suitable library-like location within a facility within the National Capital region for public review and photocopying.

(2)[25] Paragraph (1) applies to any record, live-sighting report, or other information in the custody of the official custodian referred to in subsection (d)(3) that may pertain to the location, treatment,

[24] 50 U.S.C. 401 note. Originally enacted with a catchline that read "Disclosure of Information Concerning United States Personnel Classified As Prisoner of War or Missing in Action During Vietnam Conflict"; restated by sec. 1036(4) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2842).

[25] Sec. 1036(1) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2841) amended and restated para. (2). It previously referred only to Vietnam-era POW/MIA.

or condition of (A) United States personnel who remain not accounted for as a result of service in the Armed Forces or other Federal Government service during the Korean conflict, the Vietnam era, or the Cold War, or (B) their remains.

(B) For purposes of this section, a Vietnam-era POW/MIA is any member of the Armed Forces or civilian employee of the United States who was at any time classified as a prisoner of war or missing in action during the Vietnam era and whose person or remains have not been returned to United States control.

(b) EXCEPTIONS.—(1) The Secretary of Defense may not make a record or other information available to the public pursuant to subsection (a) if—

(A) the record or other information is exempt from the disclosure requirements of section 552 of title 5, United States Code, by reason of subsection (b) of that section; or

(B) the record or other information is in a system of records exempt from the requirements of subsection (d) of section 552a of such title pursuant to subsection (j) or (k) of that section.

(2) The Secretary of Defense may not make a record or other information available to the public pursuant to subsection (a) if the record or other information specifically mentions a person by name unless—

(A) in the case of a person who is alive (and not incapacitated) and whose whereabouts are known, that person expressly consents in writing to the disclosure of the record or other information; or

(B) in the case of a person who is dead or incapacitated or whose whereabouts are unknown, a family member or family members of that person determined by the Secretary of Defense to be appropriate for such purpose expressly consent in writing to the disclosure of the record or other information.

(3)(A) The limitation on disclosure in paragraph (2) does not apply in the case of a person who is dead or incapacitated or whose whereabouts are unknown if the family member or members of that person determined pursuant to subparagraph (B) of that paragraph cannot be located by the Secretary of Defense—[26]

(i) in the case of a person missing from the Vietnam era, after a reasonable effort; and

(ii) in the case of a person missing from the Korean Conflict or Cold War, after a period of 90 days from the date on which any record or other information referred to in paragraph (2) is received by the Department of Defense for disclosure review from the Archivist of the United States, the Library of Congress, or the Joint United States-Russian Commission on POW/MIAs.

(B) Paragraph (2) does not apply to the access of an adult member of the family of a person to any record or information to the extent that the record or other information relates to that person.

[26] Sec. 1085(1) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 457) struck out "cannot be located after a reasonable effort." and inserted in lieu thereof "cannot be located by the Secretary of Defense—" and clauses (i) and (ii).

(C) The authority of a person to consent to disclosure of a record or other information for the purposes of paragraph (2) may be delegated to another person or an organization only by means of an express legal power of attorney granted by the person authorized by that paragraph to consent to the disclosure.

(c) DEADLINES.—(1) In the case of records or other information originated by the Department of Defense, the official custodian shall make such records and other information available to the public pursuant to this section not later than January 2, 1996.[27] Such records or other information shall be made available as soon as a review carried out for the purposes of subsection (b) is completed.

(2) Whenever[28] a department or agency of the Federal Government receives any record or other information referred to in subsection (a) that is required by this section to be made available to the public, the head of that department or agency shall ensure that such record or other information is provided to the Secretary of Defense, and the Secretary shall make such record or other information available in accordance with subsection (a) as soon as possible and, in any event, not later than one year after the date on which the record or information is received by the department or agency of the Federal Government.

(3) If the Secretary of Defense determines that the disclosure of any record or other information referred to in subsection (a) by the date required by paragraph (1) or (2) may compromise the safety of any United States personnel referred to in subsection (a)(2) who remain not accounted for but who may still be alive in captivity,[29] then the Secretary may withhold that record or other information from the disclosure otherwise required by this section. Whenever the Secretary makes a determination under the preceding sentence, the Secretary shall immediately notify the President and the Congress of that determination.

(d)[30] DEFINITIONS.—For purposes of this section:

(1) The terms "Korean conflict" and "Vietnam era" have the meanings given those terms in section 101 of title 38, United States Code.

(2) The term "Cold War" means the period from the end of World War II to the beginning of the Korean conflict and the

[27] Sec. 1036(2)(A) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2841) struck out "In the case of records or other information that are required by subsection (a) to be made available to the public and that are in the custody of the Department of Defense on the date of the enactment of this Act, the Secretary shall make such records and other information available to the public pursuant to this section not later than three years after that date." and inserted in lieu thereof "In the case of records or other information originated by the Department of Defense, the official custodian shall make such records and other information available to the public pursuant to this section not later than September 30, 1995." Sec. 1085(2) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 457) subsequently extended this date to January 2, 1996.

[28] Sec. 1036(2)(B) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2841) struck out "after March 1, 1992," after "Whenever".

[29] Sec. 1036(2)(C) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2842) struck out "a Vietnam-era POW/MIA who may still be alive in Southeast Asia," and inserted in lieu thereof "any United States personnel referred to in subsection (a)(2) who remain not accounted for but who may still be alive in captivity,".

[30] Sec. 1036(3) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2842) amended and restated subsec. (d). It previously referred only to "Vietnam era".

period from the end of the Korean conflict to the beginning of the Vietnam era.

(3) The term "official custodian" means—

(A) in the case of records, reports, and information relating to the Korean conflict or the Cold War, the Archivist of the United States; and

(B) in the case of records, reports, and information relating to the Vietnam era, the Secretary of Defense.

SEC. 1083.[31] FAMILY SUPPORT CENTER FOR FAMILIES OF PRISONERS OF WAR AND PERSONS MISSING IN ACTION.

(a) REQUEST FOR ESTABLISHMENT.—The President is authorized and requested to establish in the Department of Defense a family support center to provide information and assistance to members of the families of persons who at any time while members of the Armed Forces were classified as prisoners of war or missing in action in Southeast Asia and who have not been accounted for. Such a support center should be located in a facility in the National Capital region.

(b) DUTIES.—The center should be organized and provided with such personnel as necessary to permit the center to assist family members referred to in subsection (a) in contacting the departments and agencies of the Federal Government having jurisdiction over matters relating to such persons.

SEC. 1084.[32] * * * [Repealed—1998]

SEC. 1085.[33] EXTENSION OF OVERSEAS WORKLOAD PROGRAM. * * *

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SEC. 1088.[34] ADDITIONAL DEPARTMENT OF DEFENSE SUPPORT FOR COUNTER-DRUG ACTIVITIES. * * *

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SEC. 1095.[35] IRAQ AND THE REQUIREMENTS OF SECURITY COUNCIL RESOLUTION 687.

(a) FINDING.—The Congress finds that the Government of Iraq continues to violate United Nations Security Council Resolution 687, which required Iraq to submit within 15 days of its adoption on April 3, 1991, a declaration of the locations, amounts, and types of all weapons of mass destruction and to "unconditionally accept the destruction, removal or rendering harmless" of chemical weapons, biological weapons, and missiles with a range greater than 150 kilometers and the removal of nuclear weapons-usable material.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) Iraq's noncompliance with United Nations Security Council Resolution 687 constitutes a continuing threat to the peace, security, and stability of the Persian Gulf region;

(2) the President should consult closely with the partners of the United States in the Desert Storm coalition and with the

[31] 10 U.S.C. 113 note.

[32] Formerly at 36 U.S.C. 189 note. See 36 U.S.C. 189a—Display of POW/MIA Flag—enacted as sec. 1082 of Public Law 105–85 (111 Stat. 1917). Subsec. (j) of that sec. repealed sec. 1084.

[33] Sec. 1085 extended the authority of sec. 1465(b) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1700). See 10 U.S.C. 2349.

[34] Sec. 1088(a) amended sec. 1004 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1629). Subsec. (b) amended 10 U.S.C. 124.

[35] See other legislation concerning U.S. policy toward Iraq, beginning at page 6.

members of the United Nations Security Council in order to present a united front of opposition to Iraq's continuing noncompliance with Security Council Resolution 687; and

(3) the Congress supports the use of all necessary means to achieve the goals of Security Council Resolution 687 as being consistent with the Authorization for Use of Military Force Against Iraq Resolution (Public Law 102–1).

SEC. 1096.[35] IRAQ AND THE REQUIREMENTS OF SECURITY COUNCIL RESOLUTION 688.

(a) FINDING.—The Congress finds that the Government of Iraq, through its ongoing suppression of the political opposition, including Kurds and Shias, continues to violate the Universal Declaration of Human Rights and United Nations Security Council Resolution 688 which demanded that Iraq "ensure that the human and political rights of all Iraqi citizens are respected".

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) Iraq's noncompliance with United Nations Security Council Resolution 688 constitutes a continuing threat to the peace, security, and stability of the Persian Gulf region;

(2) the President should consult closely with the partners of the United States in the Desert Storm coalition and with the members of the United Nations Security Council in order to present a united front of opposition to Iraq's continuing noncompliance with Security Council Resolution 688; and

(3) the Congress supports the use of all necessary means to achieve the goals of United Nations Security Council Resolution 688 consistent with all relevant United Nations Security Council Resolutions and the Authorization for Use of Military Force Against Iraq Resolution (Public Law 102–1).

SEC. 1097.[36] ANNUAL REPORT ON THE PROLIFERATION OF MISSILES AND ESSENTIAL COMPONENTS OF NUCLEAR, BIOLOGICAL, AND CHEMICAL WEAPONS.

(a) REPORT REQUIRED.—(1) The President shall submit to the Committee on Armed Services and the Committee on International Relations[37] of the House of Representatives and the Committees

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[36] 22 U.S.C. 2751 note. Executive Order 12851 of June 11, 1993 (58 F.R. 33181) provided for the administration of proliferation sanctions, Middle East Arms Control, and related Congressional reporting requirements, including the following:

"**Sec. 2.** *Missile Proliferation Sanctions.* * * *

"(c) *Reporting Requirements.* The authority and duties vested in me to make certain reports to the Congress as provided in section 1097 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 and section 1364 of the National Defense Authorization Act for Fiscal Year 1993 are delegated to the Secretary of State.

"(d) *Coordination Among Agencies.* The Secretaries designated in this section shall exercise all functions delegated to them by this section in consultation with the Secretary of State, the Secretary of Defense, the Secretary of the Treasury, the Secretary of Commerce, the Director of the Arms Control and Disarmament Agency, and other departments and agencies as appropriate, utilizing the appropriate interagency groups prior to any determination to exercise prohibition authority delegated hereby.".

This Executive order superceded a memorandum of the President of June 25, 1991, delegating authority regarding missile technology proliferation (56 F.R. 31041; July 8, 1991).

[37] Sec. 1502(c)(3) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 507) struck out "the Committees on Armed Services and Foreign Affairs" and inserted in lieu thereof "the Committee on National Security and the Committee on International Relations". Sec. 1067(9) of Public Law 106–65 (113 Stat. 774) subsequently struck out "Committee on National Security" and inserted in lieu thereof "Committee on Armed Services".

Sec. 1031(5) of Public Law 106–65 (113 Stat. 750) made sec. 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 (Public Law 104–66; 31 U.S.C. 1113 note), as amended, which provided that "each provision of law requiring the submittal to Congress (or any committee of the Congress) of any annual, semiannual, or other regular periodic report specified

on Armed Services and Foreign Relations of the Senate an annual report on the transfer by any country of weapons, technology, or materials that can be used to deliver, manufacture, or weaponize nuclear, biological, or chemical weapons (hereinafter in this section referred to as "NBC weapons") to any country other than a country referred to in subsection (d) that is seeking to acquire such weapons, technology, or materials, or other system that the Secretary of Defense has reason to believe could be used to deliver NBC weapons.

(2) The first such report shall be submitted not later than 90 days after the date of the enactment of this Act.

(b) MATTERS TO BE COVERED.—Each such report shall cover—

(1) the transfer of all aircraft, cruise missiles, artillery weapons, unguided rockets and multiple rocket systems, and related bombs, shells, warheads and other weaponization technology and materials that the Secretary has reason to believe may be intended for the delivery of NBC weapons;

(2) international transfers of MTCR equipment or technology to any country that is seeking to acquire such equipment or any other system that the Secretary has reason to believe may be used to deliver NBC weapons; and

(3) the transfer of technology, test equipment, radioactive materials, feedstocks and cultures, and all other specialized materials that the Secretary has reason to believe could be used to manufacture NBC weapons.

(c) CONTENT OF REPORT.—Each such report shall include the following:

(1) The status of missile, aircraft, and other weapons delivery and weaponization programs in any such country, including efforts by such country to acquire MTCR equipment, NBC-capable aircraft, or any other weapon or major weapon component which is dedicated to the delivery of NBC weapons, whose primary use is the delivery of NBC weapons, or that the Secretary has reason to believe could be used to deliver NBC weapons.

(2) The status of NBC weapons development, manufacture, and deployment programs in any such country, including efforts to acquire essential test equipment, manufacturing equipment and technology, weaponization equipment and technology, and radioactive material, feedstocks or components of feedstocks, and biological cultures and toxins.

(3) A description of assistance provided by any person or government, after the date of the enactment of this Act, to any such country in the development of—

(A) missile systems, as defined in the MTCR or that the Secretary has reason to believe may be used to deliver NBC weapons;

(B) aircraft and other delivery systems and weapons that the Secretary has reason to believe could be used to deliver NBC weapons; and

(C) NBC weapons.

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* * * shall cease to be effective, with respect to that requirement, May 15, 2000.", inapplicable to this section. For Public Law 104–66 and other legislation on the repeal of reporting requirements, see *Legislation on Foreign Relations Through 2004*, vol. IV.

(4) A listing of those persons and countries which continue to provide such equipment or technology described in paragraph (3) to any country as of the date of submission of the report.

(5) A description of the diplomatic measures that the United States, and that other adherents to the MTCR and other agreements affecting the acquisition and delivery of NBC weapons, have made with respect to activities and private persons and governments suspected of violating the MTCR and such other agreements.

(6) An analysis of the effectiveness of the regulatory and enforcement regimes of the United States and other countries that adhere to the MTCR and other agreements affecting the acquisition and delivery of NBC weapons in controlling the export of MTCR and other NBC weapons and delivery system equipment or technology.

(7) A summary of advisory opinions issued under section 11B(b)(4) of the Export Administration Act of 1979 (50 U.S.C. App. 2401b(b)(4)) and under section 73(d) of the Arms Export Control Act (22 U.S.C. 2797b(d)).

(8) An explanation of United States policy regarding the transfer of MTCR equipment or technology to foreign missile programs, including programs involving launches of space vehicles.

(d) EXCLUSIONS.—The countries excluded under subsection (a) are Australia, Belgium, Canada, Denmark, Germany, France,[38] Greece, Iceland, Israel, Italy, Japan, Luxembourg, the Netherlands, Norway, Portugal, Spain, Turkey, the United Kingdom, and the United States.

(e) CLASSIFICATION OF REPORT.—The President shall make every effort to submit all of the information required by this section in unclassified form. Whenever the President submits any such information in classified form, he shall submit such classified information in an addendum and shall also submit concurrently a detailed summary, in unclassified form, of that classified information.

(f) DEFINITIONS.—For purposes of this section:

(1) The terms "missile", "MTCR", and "MTCR equipment or technology" have the meanings given those terms in section 74 of the Arms Export Control Act (22 U.S.C. 2797c).[39]

(2) The term "weaponize" or "weaponization" means to incorporate into, or the incorporation into, usable ordnance or other militarily useful means of delivery.

(g) REPEAL OF SUPERSEDED LAW.—Section 1704 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1749; 22 U.S.C. 2797) is repealed.

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[38] Sec. 1504(d) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 514) struck out "the Federal Republic of Germany, France" and inserted in lieu thereof "France, Germany".

[39] For text, see *Legislation on Foreign Relations Through 2004*, vol. I–A.

TITLE XII—SUPPLEMENTAL AUTHORIZATION OF APPROPRIATIONS FOR OPERATION DESERT STORM

SEC. 1201. EXTENSION OF SUPPLEMENTAL AUTHORIZATIONS.

(a) APPLICABILITY OF PUBLIC LAW 102–25 AUTHORIZATIONS TO FISCAL YEAR 1992.—Sections 101 and 102(c) of Public Law 102–25 (105 Stat. 78) are each amended by striking out "fiscal year 1991" each place it appears and inserting in lieu thereof "fiscal years 1991 and 1992".

(b) LIMITATION ON APPLICABILITY OF NOTICE-AND-WAIT REQUIREMENT.—The provisions of section 105 of Public Law 102–25 (105 Stat. 79) shall apply only to appropriations provided in Public Law 102–28 (105 Stat. 161).[40]

(c) INCREASED LIMITATION ON AUTHORITY FOR TRANSFER OF FISCAL YEAR 1992 AUTHORIZATIONS.—The amount of the transfer authority provided in section 1001 is increased by the amount of the transfers of funds made to fiscal year 1992 appropriations accounts pursuant to sections 101 and 102(c) of Public Law 102–25, as amended by subsection (a).

(d) TECHNICAL AMENDMENTS.—* * *

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SEC. 1203. DEFINITIONS.

(a) INCLUSION OF OPERATION PROVIDE COMFORT.—Section 3(1) of Public Law 102–25 (105 Stat. 77) is amended by striking out "Operation Desert Shield and Operation Desert Storm" and inserting in lieu thereof "Operation Desert Shield, Operation Desert Storm, and Operation Provide Comfort".

(b) INCREMENTAL COSTS ASSOCIATED WITH OPERATION DESERT STORM.—In this title, the term "incremental costs associated with Operation Desert Storm" has the meaning given such term in section 3(2) of Public Law 102–25 (105 Stat. 77).

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

SEC. 2001. SHORT TITLE.

This division may be cited as the "Military Construction Authorization Act for Fiscal Year 1992".

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TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

SEC. 2501. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS.

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Infrastructure program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2502 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

[40] See text of Public Law 102–28 at 105 Stat. 161.

SEC. 2502. AUTHORIZATION OF APPROPRIATIONS, NATO.

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1991, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Infrastructure program as authorized by section 2501, in the amount of $225,000,000.

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TITLE XXVII—EXPIRATION AND EXTENSION OF AUTHORIZATIONS

SEC. 2701. EXPIRATION OF AUTHORIZATIONS.

(a) EXPIRATION OF AUTHORIZATIONS AFTER THREE YEARS IN CERTAIN CASES.—Except as provided in subsection (b), all authorizations contained in titles XXI, XXII, XXIII, XXIV, XXV, and XXVI for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Infrastructure program (and authorizations of appropriations therefor) shall expire on the later of—

(1) October 1, 1994; or

(2) the date of the enactment of an Act authorizing funds for military construction for fiscal year 1995.

(b) EXCEPTION.—Subsection (a) shall not apply with respect to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Infrastructure program (and authorizations of appropriations therefor), for which appropriated funds have been obligated before the later of—

(1) October 1, 1994; or

(2) the date of the enactment of an Act authorizing funds for fiscal year 1995 for military construction projects, land acquisitions, family housing projects and facilities, or contributions to the North Atlantic Treaty Organization Infrastructure program.

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TITLE XXVIII—GENERAL PROVISIONS

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PART D—PROHIBITION ON CERTAIN CONSTRUCTION

SEC. 2851. PROHIBITION ON CONSTRUCTION AT CROTONE, ITALY.

None of the funds available to the Department of Defense, including contributions for the North Atlantic Treaty Organization Infrastructure program pursuant to section 2806 of title 10, United States Code, may be obligated in connection with relocating functions of the Department of Defense located at Torrejon Air Force Base, Madrid, Spain, on June 15, 1989, to Crotone, Italy.

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DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

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PART C—MISCELLANEOUS

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SEC. 3140. REPORT ON SCHEDULE FOR RESUMPTION OF NUCLEAR TESTING TALKS AND TEST BAN READINESS PROGRAM.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the United States and the Soviet Union share a special responsibility to resume the Nuclear Testing Talks to continue negotiations toward additional limitations on nuclear weapons testing.

(b) REPORT.—Not later than 60 days after the date of the enactment of this Act, the President shall submit to Congress a report containing a proposed schedule for resumption of the Nuclear Testing Talks and identifying the goals to be pursued in those talks.

(c) NUCLEAR TEST BAN READINESS PROGRAM.—Of the funds appropriated to the Department of Energy for fiscal year 1992 for weapons activities, $20,000,000 shall be available to conduct the nuclear test ban readiness program established pursuant to section 1436 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 42 U.S.C. 2121 note).

SEC. 3141. WARHEAD DISMANTLEMENT AND MATERIAL DISPOSAL.

(a) FINDINGS.—The Congress makes the following findings:

(1) On September 27, 1991, the President announced as part of a unilateral initiative designed to "enhance stability and reduce the risk of nuclear war," that the United States should explore with the Soviet Union "joint technical cooperation on the safe and environmentally responsible storage, transportation, dismantling, and destruction of nuclear weapons".

(2) On October 5, 1991, the President of the Soviet Union stated in response that "We hereby stress readiness to embark on a specific dialogue with the United States on the elaboration of safe and ecologically responsible technologies for the storage and transportation of nuclear warheads and nuclear charges, and to design jointly measures to enhance nuclear safety".

(3) The President's initiative and the Soviet response hold out the prospect of enhancing stability and reducing the risk of nuclear war.

(b) CONGRESSIONAL ENDORSEMENT.—Congress strongly endorses the initiative proposed by the President and the Soviet response and looks forward—

(1) to hearing the proposed initiatives of the President during the congressional review of the President's proposed budget for fiscal year 1993; and

(2) to helping facilitate such initiatives through appropriate legislative measures which are requested by the President.

(c) WARHEAD DISMANTLEMENT.—Of the funds appropriated to the Department of Energy for fiscal year 1992 for weapons activities, $10,000,000 shall be available to conduct a program to develop and demonstrate a means for verifiable dismantlement of nuclear warheads.

SEC. 3142. REPORT ON NUCLEAR WEAPONS MATTERS.

(a) REPORT.—Not later than April 1, 1992, the President shall submit to the congressional defense committees a report containing the following:

(1) Information on the national security requirements of each of the following items, for the period beginning on September 30, 1991, and ending on September 30, 2001:

(A) The planned stockpile of nuclear weapons.

(B) The amount of tritium necessary to maintain the planned stockpile, including—

(i) the amount of tritium available from inventory;

(ii) the amount of tritium that must be produced and when; and

(iii) an assessment of the need for and duration of operation of the K-reactor, located at the Savannah River Site in South Carolina.

(C) The feasibility and desirability of use of W–76 warheads in place of W–88 warheads in the Trident II missiles carried by Trident Fleet Ballistic Missile submarines.

(D) The need for and duration of operation of the Rocky Flats Plant facilities (other than Building 559) located at Golden, Colorado, for the purposes of—

(i) production of W–88 warheads; and

(ii) plutonium operations other than warhead production.

(E) The earliest practicable date for the commencement of operation of facilities that replace the K-reactor and the Rocky Flats Plant, including an assessment of the effect of a delay (beyond the second quarter of fiscal year 1992) in the selection of the site and the technology for the new production reactor.

(2) A plan for assistance to the workforce at Rocky Flats and the K-reactor, including retraining for new employment opportunities at the sites, that could be provided in the event that either facility ceases production.

(b) FORM OF REPORT.—The report required by subsection (a) shall be submitted in classified and unclassified form.

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TITLE XXXV—PANAMA CANAL COMMISSION[41]

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[41] See *Legislation on Foreign Relations Through 2004*, vol. II.

u. National Defense Authorization Act for Fiscal Year 1991

Partial text of Public Law 101–510 [H.R. 4739], 104 Stat. 1485, approved November 5, 1990; amended by Public Law 102–25 [Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991; S. 725], 105 Stat. 75, approved April 6, 1991; Public Law 102–190 [National Defense Authorization Act for Fiscal Years 1992 and 1993; H.R. 2100], 105 Stat. 1290, approved December 5, 1991; Public Law 102–484 [National Defense Authorization Act for Fiscal Year 1993; H.R. 5006], 106 Stat. 2315, approved October 23, 1992; Public Law 103–160 [National Defense Authorization Act for Fiscal Year 1994; H.R. 2401], 107 Stat. 1547, approved November 30, 1993; Public Law 103–335 [National Defense Authorization Act for Fiscal Year 1995; S. 2182], 108 Stat. 2663, approved October 5, 1994; Public Law 104–106 [National Defense Authorization Act for Fiscal Year 1996; S. 1124], 110 Stat. 186, approved February 10, 1996; Public Law 104–201 [National Defense Authorization Act for Fiscal Year 1997; H.R. 3230], 110 Stat. 2422, approved September 23, 1996; Public Law 105–85 [National Defense Authorization Act for Fiscal Year 1998; H.R. 1119], 111 Stat. 1629, approved November 18, 1997; Public Law 105–261 [Strom Thurmond National Defense Authorization Act for Fiscal Year 1999; H.R. 3616], 112 Stat. 1920, approved October 17, 1998; Public Law 106–65 [National Defense Authorization Act for Fiscal Year 2000; S. 1059], 113 Stat. 512, approved October 5, 1999; Public Law 107–107 [National Defense Authorization Act for Fiscal Year 2002; S. 1438], 115 Stat. 1012, approved December 28, 2001; Public Law 108–136 [National Defense Authorization Act for Fiscal Year 2004; H.R. 1588], 117 Stat. 1392, approved November 24, 2003

AN ACT To authorize appropriations for fiscal year 1991 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE

This Act may be cited as the "National Defense Authorization Act for Fiscal Year 1991".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS

(a) DIVISIONS.—This Act is organized into four divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

(4) Division D—Economic Adjustment, Diversification, Conversion, and Stabilization.

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SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES DEFINED

For purposes of this Act, the term "congressional defense committees" means the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives.[1]

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

PART A—FUNDING AUTHORIZATIONS

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SEC. 107. CHEMICAL DEMILITARIZATION PROGRAM

Funds are hereby authorized to be appropriated for fiscal year 1991 for the destruction of lethal chemical weapons in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (Public Law 99–145; 99 Stat. 747) in the amount of $382,600,000.

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TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

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PART E—OTHER MATTERS

SEC. 241.[2] BIOLOGICAL DEFENSE RESEARCH PROGRAM * * *

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SEC. 248. ESTABLISHMENT OF DEPARTMENT OF DEFENSE TECHNOLOGY OFFICE IN JAPAN

(a) IN GENERAL.—The Secretary of Defense shall establish an office of the Department of Defense in Japan to investigate, evaluate, and facilitate opportunities for cooperation between the United States and Japan for the development of technologies of interest to the Department of Defense.

(b) DEADLINE.—The Secretary of Defense shall establish such office no later than September 30, 1991.

SEC. 249. GRANT FOR STUDY AND ANALYSIS OF THE SOVIET UNION AND CERTAIN OTHER COUNTRIES

Of the amounts authorized to be appropriated pursuant to section 201, $600,000 shall be available for making a grant to one or more qualified nonprofit organizations for the support of research and analyses by emigrants from the Soviet Union, the countries of Eastern Europe (including Albania), and Cuba regarding political, economic, social, and other developments in those countries.

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[1] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. The Committee on National Security subsequently returned to the name "Committee on Armed Services"; see sec. 1067 of Public Law 106–65 (113 Stat. 774).

[2] Sec. 241 added a new sec. 2370 to 10 U.S.C.

TITLE III—OPERATION AND MAINTENANCE

PART A—AUTHORIZATION OF APPROPRIATIONS

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SEC. 303. HUMANITARIAN ASSISTANCE

(a) PURPOSE.—(1) Funds appropriated pursuant to the authorization in section 301(a)(17)[3] for humanitarian assistance shall be used for the purpose of providing transportation for humanitarian relief for persons displaced or who are refugees because of the invasion of Afghanistan by the Soviet Union.

(2) Of the funds authorized to be appropriated for fiscal year 1991 pursuant to such section for such purpose, not more than $3,000,000 shall be available for distribution of humanitarian relief supplies to displaced persons or refugees who are noncombatants, including those affiliated with the Cambodian nonCommunist resistance, at or near the border between Thailand and Cambodia.

(b) AUTHORITY TO TRANSFER FUNDS.—The Secretary of Defense may transfer to the Secretary of State not more than $3,000,000 of the funds appropriated pursuant to such section for fiscal year 1991 for humanitarian assistance, other than the funds described in subsection (a)(2), to provide for—

(1) the payment of administrative costs incurred in providing the transportation described in subsection (a); and

(2) the purchase or other acquisition of transportation assets for the distribution of humanitarian relief supplies in the country of destination.

(c) TRANSPORTATION UNDER DIRECTION OF THE SECRETARY OF STATE.—Transportation for humanitarian relief provided with funds appropriated pursuant to such section for humanitarian assistance shall be provided under the direction of the Secretary of State.

(d) MEANS OF TRANSPORTATION TO BE USED.—Transportation for humanitarian relief provided with funds appropriated pursuant to such section for humanitarian assistance shall be provided by the most economical commercial or military means available, unless the Secretary of State determines that it is in the national interest of the United States to provide transportation other than by the most economical means available. The means used to provide such transportation may include the use of aircraft and personnel of the reserve components of the Armed Forces.

(e) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to such section for humanitarian assistance shall remain available until expended, to the extent provided in appropriation Acts.[4]

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PART C—CHANGES TO EXISTING LAW

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[3] Sec. 301(a)(17) authorized "For Humanitarian Assistance, $13,000,000.".
[4] Sec. 304(f)(5) of Public Law 102–190 (105 Stat. 1334) struck out subsec. (f).

SEC. 330.[5] OPERATION OF THE INTER-AMERICAN AIR FORCES ACADEMY * * *

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PART D—ENVIRONMENTAL PROVISIONS

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SEC. 342. REPORTING REQUIREMENTS ON ENVIRONMENTAL COMPLIANCE AT OVERSEAS MILITARY INSTALLATIONS

(a) ADDITIONAL INFORMATION IN ENVIRONMENTAL BUDGET REPORT.—Paragraph (1) of section 2706(b) of title 10, United States Code, as amended by section 341, is amended by adding at the end the following new subparagraph:

"(G) A statement of the funding levels and personnel required for the Department of Defense to comply with applicable environmental requirements for military installations located outside the United States during the fiscal year for which the budget is submitted.".

(b) POLICIES AND REPORT ON OVERSEAS ENVIRONMENTAL COMPLIANCE.—(1) The Secretary of Defense shall develop a policy for determining applicable environmental requirements for military installations located outside the United States. In developing the policy, the Secretary shall ensure that the policy gives consideration to adequately protecting the health and safety of military and civilian personnel assigned to such installations.

(2) The Secretary of Defense shall develop a policy for determining the responsibilities of the Department of Defense with respect to cleaning up environmental contamination that may be present at military installations located outside the United States. In developing the policy, the Secretary shall take into account applicable international agreements (such as Status of Forces agreements), multinational or joint use and operation of such installations, relative share of the collective defense burden, and negotiated accommodations.

(3) The Secretary of Defense shall develop a policy and strategy to ensure adequate oversight of compliance with applicable environmental requirements and responsibilities of the Department of Defense determined under the policies developed under paragraphs (1) and (2). In developing the policy, the Secretary shall consider using the Inspector General of the Department of Defense to ensure active and forceful oversight.

(4) At the same time the President submits to Congress his budget for fiscal year 1993 pursuant to section 1105 of title 31, United States Code, the Secretary of Defense shall submit to Congress a report describing the policies developed under paragraphs (1), (2), and (3). The report also shall include a discussion of the role of the Inspector General of the Department of Defense in overseeing environmental compliance at military installations outside the United States.

(5) For purposes of this subsection, the term "military installation" means a base, camp, post, station, yard, center, or other activity under the jurisdiction of the Secretary of a military department

[5] Sec. 330 added a new sec. 9415 to 10 U.S.C.

which is located outside the United States and outside any territory, commonwealth, or possession of the United States.

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PART E—MISCELLANEOUS

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SEC. 357. SENSE OF CONGRESS REGARDING THE TRANSFER TO EUROPE OF MILITARY EQUIPMENT THAT WOULD THEN BE DESTROYED OR REMOVED AS A RESULT OF AN ARMS CONTROL AGREEMENT

(a) FINDINGS.—Congress finds the following:

(1) The Secretary of Defense has announced commencement of substantial withdrawals of United States military personnel from Europe in anticipation of concluding an agreement that will reduce conventional forces in Europe and in recognition of the reduced threat in Europe.

(2) The anticipated arms control agreement on conventional forces in Europe will require destruction or demilitarization of certain military equipment in excess of limits specified in the agreement.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) funds appropriated for the Department of Defense should not be used to transfer to Europe any military equipment that would have to be destroyed as a result of the anticipated arms control agreement on conventional forces in Europe; and

(2) the Department of Defense should make every effort to avoid transferring to Europe any military equipment that would, after only a short period of time in Europe, have to be returned to the United States as a result of further withdrawals of United States military personnel from Europe.

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PART F—STUDIES AND REPORTS

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SEC. 364. REPORT ON THE TRANSPORTATION OF CHEMICAL WEAPONS FROM THE FEDERAL REPUBLIC OF GERMANY TO JOHNSTON ISLAND

(a) REPORT REQUIRED.—The Secretary of the Army shall prepare a report analyzing the safety aspects of the project to remove and transport chemical weapons stored in the Federal Republic of Germany to Johnston Island, with special emphasis on measures undertaken to ensure safety during the actual transportation of the weapons.

(b) USE OF REPORT.—The report required by subsection (a) shall be used as part of each Phase I site specific environmental impact statement study of chemical weapons storage sites in the United States (including the Aberdeen Proving Ground, Maryland, and the Lexington-Blue Grass Army Depot, Kentucky) that is initiated on or after the date of the enactment of this Act. These Phase I studies are being used to assist in determining the validity of the programmatic on-site disposal decisions that have been made for those

sites. Information from the report shall be incorporated in any Phase I assessment of transportation alternatives for those sites.

(c) SUBMISSION OF REPORT.—The report required by subsection (a) shall be submitted to Congress not later than 60 days after the date the transportation project referred to in that subsection is completed.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

PART A—ACTIVE FORCES

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SEC. 406.[6] REDUCTION IN THE AUTHORIZED END STRENGTH FOR THE NUMBER OF MILITARY PERSONNEL IN EUROPE * * *

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TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

PART A—ACQUISITION MANAGEMENT IMPROVEMENT

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SEC. 801.[7] AUTHORITY GOVERNING OPERATION OF WORKING-CAPITAL FUNDED ACTIVITIES * * *

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TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT MATTERS

PART A—GENERAL MANAGEMENT MATTERS

SEC. 901.[8] NATIONAL MILITARY STRATEGY REPORTS

(a) REPORTS BY THE SECRETARY OF DEFENSE.—(1) The Secretary of Defense shall submit to Congress a national military strategy report during each of fiscal years 1992, 1993, and 1994. Each such report shall be submitted with the Secretary's annual report to Congress for that year under section 113(j) of title 10, United States Code.

(b) MATTERS TO BE COVERED IN REPORTS.—Each such report shall cover a period of at least ten years and shall address the following:

(1) The threats facing the United States and its allies.

(2) The degree to which military forces can contribute to the achievement of national objectives.

(3) The strategic military plan for applying those forces to the achievement of national objectives.

(4) The risk to the national security of the United States and its allies that ensues.

(5) The organization and structure of military forces to implement the strategy.

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[6] Sec. 406 amended sec. 1002 of the Department of Defense Authorization Act, 1985 (22 U.S.C. 1928 note), and repealed sec. 911 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1523).

[7] Sec. 801 amended 10 U.S.C. 2208(i); redesignated as 10 U.S.C. 4543.

[8] 10 U.S.C. 113 note.

(6) The broad mission areas for various components of the forces and the broad support requirements to implement the strategy.

(7) The functions for which each military department should organize, train, and equip forces for the combatant commands responsible for implementing the strategy.

(8) The priorities assigned to major weapons and equipment acquisitions and to research and development programs in order to fill the needs and eliminate deficiencies of the combatant commands.

(c) RELATIONSHIP OF PLANS TO BUDGET.—The strategic military plans and other matters covered by each report shall be fiscally constrained and shall relate to the current Department of Defense Multiyear Defense Plan and resource levels projected by the Secretary of Defense to be available over the period covered by the report.

(d) EFFECTS OF ALTERNATIVE BUDGET LEVELS.—Each such report shall also include an assessment of the effect on the risk and the other components of subsection (b) in the event that (1) an additional $50,000,000,000 is available in budget authority in the fiscal year which is addressed by the budget request that the report accompanies, and (2) budget authority for that fiscal year is reduced by $50,000,000,000. For these assessments the Secretary of Defense shall make appropriate assumptions about the funds available for the remainder of the period covered by the report.

(e) ROLE OF CHAIRMAN OF JOINT CHIEFS OF STAFF.—In accordance with his role as principal military adviser to the Secretary of Defense, the Chairman of the Joint Chiefs of Staff shall participate fully in the development of each such report. The Secretary of Defense shall provide the Chairman such additional guidance as is necessary to enable the Chairman to develop and recommend fiscally constrained strategic plans for the Secretary's consideration in accordance with section 153(a)(2) of title 10, United States Code. In accordance with additional responsibilities of the Chairman set out in section 153, the Chairman shall provide recommendations to the Secretary on the other components of paragraph (2).

(f) CLASSIFICATION OF REPORTS.—The reports submitted to Congress under subsection (a) shall be submitted in both classified and (to the extent practicable) unclassified versions.

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SEC. 909. STUDY AND PLAN REGARDING MOBILITY REQUIREMENTS

(a) STUDY AND PLAN REQUIRED.—The Secretary of Defense, with the advice and assistance of the Chairman of the Joint Chiefs of Staff, shall conduct a study to determine mobility requirements for the Armed Forces and shall develop an integrated plan to meet those requirements.

(b) REPORTS REQUIRED.—(1) The Secretary shall submit to the congressional defense committees two reports regarding the study required by subsection (a).

(2) The first report shall cover intertheater requirements, shall contain a copy of the integrated plan regarding such requirements, and shall be submitted not later than March 29, 1991.

(3) The second report shall cover intratheater requirements, surface requirements, and requirements for mobility within the continental United States, shall contain a copy of the integrated plan regarding such requirements, and shall be submitted not later than June 28, 1991.

(c) FORMAT AND CONTENT OF REPORTS.—(1) Each report shall be in the same format as the report submitted to Congress under section 203(b) of the Department of Defense Authorization Act, 1981 (Public Law 96–342; 94 Stat. 1080), and shall cover (in addition to the matters specified in paragraphs (2) and (3)) the same matters required under such section and the Joint Explanatory Statement of the Committee of Conference relating to such Act, as set out in Senate Report 96–895, 96th Congress, second session.

(2) The two reports together shall include an analysis of the total mix of airlift, sealift, amphibious lift, surface transportation, and prepositioned war material (both at sea and on land) necessary for the United States to respond to contingent threats against the national security interests of the United States during the remainder of the current decade and beyond. The analysis of prepositioned war material should identify where such material should be located. The analysis may not be limited to consideration of a single requirement for lift and material based upon the most demanding case, but shall include an assessment of a range of requirements for lift and material based upon various military contingencies and scenarios. The Operation Just Cause and Operation Desert Shield deployments shall be included among the scenarios examined. The analysis shall also include—

(A) an assessment of both intratheater and intertheater lift requirements; and

(B) an assessment of the total requirements for mobility, including support equipment and the equipment necessary for strategic mobility at unimproved ports, airfields, and other facilities.

(3) The two reports together shall also include the following:

(A) An assessment of how the total mix of mobility and prepositioning requirements has been affected by changing circumstances in Europe and elsewhere, including—

(i) an increase in the opportunities to detect any planned attack by the Soviet Union;

(ii) an increase in the time likely to be available to prepare for such an attack after detection;

(iii) a reduced level of Soviet threat to the national security interests of the United States;

(iv) the decreasing level of Armed Forces personnel deployed overseas;

(v) the changing threat in Northeast Asia; and

(vi) the changing threat in Southwest Asia.

(B) An assessment of how such requirements are being affected by the changing need for power projection capability in low-intensity and medium-intensity conflicts.

(C) An assessment of how such requirements would be affected by the loss of United States military bases, and the loss of access to other military bases, in such overseas locations as the Philippines.

(D) An assessment of how the reduced reliance expected to be placed by the Armed Forces on NATO and other allied shipping and military bases for employment of the Armed Forces unilaterally in contingent actions affects the requirements for airlift, sealift, amphibious lift, and prepositioned war material.

(E) An assessment of whether increased dependence should be placed upon sealift capabilities in view of the factors assessed pursuant to subparagraphs (A) through (D) and the potential benefits of sealift vessels which might be developed that would be faster than the sealift vessels currently available from commercial sources.

(F) A discussion of initiatives that can be undertaken to reduce the time required to move forces and material from home bases to combat areas, including measures that can be undertaken to reduce (i) the time necessary for loading and unloading personnel and equipment at airports and seaports, (ii) the time necessary for moving ground forces to airports and seaports, and (iii) the delivery times from points of debarkation to final destinations.

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TITLE X—DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES

SEC. 1001. DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES FUNDING

Funds authorized to be appropriated pursuant to section 301(a)(14) for drug interdiction and counter-drug activities of the Department of Defense shall be available for the purposes and in the amounts specified as follows:

(1) For operation and maintenance, $585,600,000.

(2) For procurement, $345,300,000.

(3) For National Guard pay and allowances, $105,500,000.

(4) For research, development, test, and evaluation, $47,700,000.

SEC. 1002. OVER-THE-HORIZON RADAR

(a) STUDY.—(1) The Secretary of Defense, acting through the Joint Electronics Warfare Center, shall conduct a study to examine the need for an over-the-horizon radar in the central part of the United States directed toward Mexico.

(2) In carrying out such study, the Secretary shall assess—

(A) the capability of the over-the-horizon radar against small targets, including single engine aircraft of the type used in drug trafficking;

(B) the ability of the over-the-horizon radar to correlate such targets with existing civilian air traffic; and

(C) the relative cost and operational effectiveness of an over-the-horizon radar compared with continued investment in other types of radars, such as the Small Aerostat System, land based aerostats, and the Caribbean based radar system.

(3) The Secretary shall submit the results of the study required by paragraph (1) to the congressional defense committees not later than 180 days after the date of the enactment of this Act.

(4) Of the amount made available for procurement under section 1001(2), $3,000,000 shall be available to carry out the study required by paragraph (1).

(b) TESTBED FACILITY.—Of the amount made available for procurement under section 1001(2) for the over-the-horizon radar, $6,000,000 shall be used for the procurement of a commercial testbed facility for the over-the-horizon radar to serve as an interim facility until the study required by subsection (a) is completed and the need for an over-the-horizon radar for drug interdiction is determined.

(c) LIMITATION ON OTHER SPENDING.—The balance of other funds made available for procurement under section 1001(2) for the over-the-horizon radar may not be obligated until 30 days after—

(1) the Secretary of Defense certifies to Congress, after conclusion of the study required by subsection (a), that such a system is needed, meets the requirements of the drug interdiction program, and would be the most cost effective system when compared with the cost of additional investment in other radar systems or other intelligence programs; and

(2) in the event the Over-The-Horizon Backscatter radar (OTH–B) is determined to be the most suitable over-the-horizon radar system, the Office of Test and Evaluation certifies to Congress that the East Coast System of the OTH–B meets all contract requirements and performance specifications contained in the Test and Evaluation Master Plan and the Operation Test Plan for that system.

SEC. 1003. CIVIL AIR PATROL

Of the amount made available for operation and maintenance under section 1001(1), $1,000,000 shall be available to the Secretary of Defense for the purpose of paying expenses incurred by the Civil Air Patrol in conducting drug surveillance flights.

SEC. 1004.[9] ADDITIONAL SUPPORT FOR COUNTER-DRUG ACTIVITIES

(a) SUPPORT TO OTHER AGENCIES.—During fiscal years 2002 through 2006, the Secretary of Defense may provide support for the counter-drug activities of any other department or agency of the Federal Government or of any State, local, or foreign law enforcement agency for any of the purposes set forth in subsection (b) if such support is requested—

(1) by the official who has responsibility for the counter-drug activities of the department or agency of the Federal Government, in the case of support for other departments or agencies of the Federal Government;

(2) by the appropriate official of a State or local government, in the case of support for State or local law enforcement agencies; or

[9] 10 U.S.C. 374 note. Sec. 1021 of Public Law 107–107 (115 Stat. 1212) amended and restated sec. 1004. Prior to this restatement, the authority of the original text was extended through FY 1994 by sec. 1041(a) of Public Law 102–484 (106 Stat. 2491). Sec. 1121(a) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1754) extended the authority through FY 1995. Sec. 1011(a) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2836) extended the authority through 1999. Sec. 1021(a) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2120) extended the authority through 2002.

(3) by an appropriate official of a department or agency of the Federal Government that has counter-drug responsibilities, in the case of support for foreign law enforcement agencies.

(b) TYPES OF SUPPORT.—The purposes for which the Secretary of Defense may provide support under subsection (a) are the following:

(1) The maintenance and repair of equipment that has been made available to any department or agency of the Federal Government or to any State or local government by the Department of Defense for the purposes of—

(A) preserving the potential future utility of such equipment for the Department of Defense; and

(B) upgrading such equipment to ensure compatibility of that equipment with other equipment used by the Department of Defense.

(2) The maintenance, repair, or upgrading of equipment (including computer software), other than equipment referred to in paragraph (1) for the purpose of—

(A) ensuring that the equipment being maintained or repaired is compatible with equipment used by the Department of Defense; and

(B) upgrading such equipment to ensure the compatibility of that equipment with equipment used by the Department of Defense.

(3) The transportation of personnel of the United States and foreign countries (including per diem expenses associated with such transportation), and the transportation of supplies and equipment, for the purpose of facilitating counter-drug activities within or outside the United States.

(4) The establishment (including an unspecified minor military construction project) and operation of bases of operations or training facilities for the purpose of facilitating counter-drug activities of the Department of Defense or any Federal, State, or local law enforcement agency within or outside the United States or counter-drug activities of a foreign law enforcement agency outside the United States.

(5) Counter-drug related training of law enforcement personnel of the Federal Government, of State and local governments, and of foreign countries, including associated support expenses for trainees and the provision of materials necessary to carry out such training.

(6) The detection, monitoring, and communication of the movement of—

(A) air and sea traffic within 25 miles of and outside the geographic boundaries of the United States; and

(B) surface traffic outside the geographic boundary of the United States and within the United States not to exceed 25 miles of the boundary if the initial detection occurred outside of the boundary.

(7) Construction of roads and fences and installation of lighting to block drug smuggling corridors across international boundaries of the United States.

(8) Establishment of command, control, communications, and computer networks for improved integration of law enforcement, active military, and National Guard activities.

(9) The provision of linguist and intelligence analysis services.

(10) Aerial and ground reconnaissance.

(c) LIMITATION ON COUNTER-DRUG REQUIREMENTS.—The Secretary of Defense may not limit the requirements for which support may be provided under subsection (a) only to critical, emergent, or unanticipated requirements.

(d) CONTRACT AUTHORITY.—In carrying out subsection (a), the Secretary of Defense may acquire services or equipment by contract for support provided under that subsection if the Department of Defense would normally acquire such services or equipment by contract for the purpose of conducting a similar activity for the Department of Defense.

(e) LIMITED WAIVER OF PROHIBITION.—Notwithstanding section 376 of title 10, United States Code, the Secretary of Defense may provide support pursuant to subsection (a) in any case in which the Secretary determines that the provision of such support would adversely affect the military preparedness of the United States in the short term if the Secretary determines that the importance of providing such support outweighs such short-term adverse effect.

(f) CONDUCT OF TRAINING OR OPERATION TO AID CIVILIAN AGENCIES.—In providing support pursuant to subsection (a), the Secretary of Defense may plan and execute otherwise valid military training or operations (including training exercises undertaken pursuant to section 1206(a) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1564)) for the purpose of aiding civilian law enforcement agencies.

(g) RELATIONSHIP TO OTHER LAWS.—(1) The authority provided in this section for the support of counter-drug activities by the Department of Defense is in addition to, and except as provided in paragraph (2), not subject to the requirements of chapter 18 of title 10, United States Code.

(2) Support under this section shall be subject to the provisions of section 375 and, except as provided in subsection (e), section 376 of title 10, United States Code.

(h) CONGRESSIONAL NOTIFICATION OF FACILITIES PROJECTS.—(1) When a decision is made to carry out a military construction project described in paragraph (2), the Secretary of Defense shall submit to the congressional defense committees written notice of the decision, including the justification for the project and the estimated cost of the project. The project may be commenced only after the end of the 21-day period beginning on the date on which the written notice is received by Congress.

(2) Paragraph (1) applies to an unspecified minor military construction project that—

(A) is intended for the modification or repair of a Department of Defense facility for the purpose set forth in subsection (b)(4); and

(B) has an estimated cost of more than $500,000.

SEC. 1005. TRANSFER OF EXCESS DEFENSE ARTICLES

Pursuant to sections 372 and 2576a[10] of title 10, United States Code, the Secretary of Defense shall review the availability of equipment resulting from the withdrawal of United States forces from Europe and Asia for the purpose of identifying excess equipment that may be suitable for drug enforcement activities for transfer to appropriate Federal, State, or local civilian law enforcement authorities.

SEC. 1006. SENSE OF CONGRESS REGARDING THE EFFECTIVE USE OF COUNTER-DRUG FUNDS

It is the sense of Congress that the Secretary of Defense and the Chairman of the Joint Chiefs of Staff should continue to emphasize the commitment of the Department of Defense to its extremely important mission of combating illegal drugs so that the entire chain of command of the Department of Defense fully and effectively uses funds of the Department to ensure the maximum contribution of the Armed Forces to the national counter-drug effort.

SEC. 1007. REPORT ON DEFENSE SPENDING FOR COUNTER-DRUG ACTIVITIES

(a) REPORT REQUIRED.—Not later than six months after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the congressional defense committees, the Senate Caucus on International Narcotics Control, and the Select Committee on Narcotics Abuse and Control of the House of Representatives a report examining the counter-drug budget and expenditures of the Department of Defense.

(b) CONTENTS.—The report required by subsection (a) shall include the following:

(1) An analysis of the funds authorized and appropriated in fiscal years 1989 and 1990 for the counter-drug activities of the Department of Defense, including—

(A) an examination of how those funds were obligated and expended, including a month-by-month breakdown of obligations and expenditures;

(B) a determination of whether there were delays in obligating and expending those funds and the reasons for any such delays; and

(C) an accounting of the amount of funds available for counter-drug activities that lapsed at the end of each of the fiscal years.

(2) A determination of whether there has been a systemic failure in the timely obligation and expenditure of funds appropriated for the counter-drug activities of the Department of Defense for fiscal years 1989 and 1990.

(3) An analysis of the effectiveness of the role of the Department of Defense Coordinator for Drug Enforcement Policy and Support, including—

(A) a determination whether the responsibility of serving as both the Assistant Secretary of Defense for Reserve Affairs and Coordinator for Drug Enforcement Policy and

[10] Sec. 1033(b)(2) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2640) struck out "section 1208 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (10 U.S.C. 372 note) and section 372" and inserted in lieu thereof "sections 372 and 2576a".

Support complicates the ability of the Assistant Secretary to coordinate all entities within the Department of Defense in the counter-drug mission; and

(B) a determination regarding the adequacy of personnel levels in the Office of the Assistant Secretary to meet his responsibility for coordinating counter-drug activities within the Department of Defense and ensuring that funds appropriated for such activities are obligated and expended in a timely manner.

(4) Recommendations for correcting any problems found in the course of the review.

SEC. 1008. STUDY OF UTILITY OF OH–58D HELICOPTER IN DETECTION OF CROSS-BORDER INTRUSIONS BY DRUG SMUGGLERS

(a) STUDY REQUIRED.—The Secretary of Defense shall conduct a study on the feasibility and effectiveness of using the OH–58D Scout helicopters for detecting, monitoring, and conducting surveillance of the ground movements of drug smugglers along the southwest border of the United States. In carrying out such study, the Secretary shall consider in particular the following matters:

(1) The suitability of the OH–58D helicopter for performing the missions described in the first sentence.

(2) The feasibility of having personnel of the Army National Guard operate and maintain OH–58D helicopters when such personnel are not in Federal service.

(b) INTERAGENCY COORDINATION.—The Secretary shall carry out the study required by subsection (a) in consultation with the Commissioner of the United States Customs Service.

(c) SUBMISSION OF REPORT.—The Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives [11] a report containing the results of the study required by subsection (a) not more than 180 days after the date of the enactment of this Act. The Secretary shall include in the report the conclusions of the Secretary based on the study together with such comments and recommendation as the Secretary considers appropriate.

SEC. 1009. ANDEAN ANTI-DRUG EFFORTS

(a) FINDINGS.—Congress makes the following findings:

(1) The support for democratic process and civilian governance in the Andean countries of Peru, Bolivia, and Colombia, the first two of which have only recently emerged from periods of military rule, is a necessary precondition for long-term stability in those countries and for the successful fight against the production and traffic of illegal drugs in those countries.

(2) The separation of military and civilian law enforcement functions has historically been a critical element in democracies around the world, including the United States.

(3) There is a need to determine whether the current policies of the United States unduly emphasize assistance to military entities of those countries rather than civilian law enforcement

[11] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. The Committee on National Security subsequently returned to the name "Committee on Armed Services"; see sec. 1067 of Public Law 106–65 (113 Stat. 774).

entities in carrying out anti-drug efforts in those countries and whether such policies might tend to undermine the dual long-term policy goals of the United States of stopping the traffic of drugs at their sources and the preservation of civilian control over the newly established democracies of the Andean countries.

(4) There is a need to assess the impact that United States assistance in the Andean anti-drug effort will have on reducing drug activity and supporting democratic processes in the Andean countries.

(b) REPORT REQUIRED.—(1) Not later than 90 days after the date of the enactment of this Act, the Secretary of State and the Secretary of Defense shall, in consultation with the Director of the Office of National Drug Control Policy, jointly submit to Congress a report detailing current United States policies with respect to the Andean countries in general and with respect to the counter-drug enforcement activities and associated training programs of the United States in such countries in particular.

(2) Such report shall include an analysis of the impact that the involvement of the military forces of the Andean countries in counter-drug enforcement activities has on the democratic institutions of those countries and how the civilian institutions of those countries might be strengthened in order to assure the successful pursuit of a counter-drug strategy.

(3) Such report shall contain specific legislative recommendations for improving the assistance activities of the United States in the Andean countries in order to avoid unnecessary duplications and contradictions in meeting United States policy goals in those countries.

SEC. 1010. CREATION OF A MULTILATERAL COUNTER-DRUG STRIKE FORCE

(a) FINDINGS.—Congress makes the following findings:

(1) Congress has in the past sought approval for a multilateral strike force dedicated to the war on drugs.

(2) The proposal by the Prime Minister of Jamaica for the creation of a multilateral, international counter-drug strike force is the first operative proposal for the use of a multilateral force against the drug cartels in Latin America by a government leader in the Western Hemisphere and should be given serious consideration.

(b) SENSE OF THE CONGRESS.—It is the sense of Congress that—

(1) the Prime Minister of Jamaica is to be commended for his proposal;

(2) the President should call for international negotiations for the purpose of discussing the establishment of an international strike force to counter international drug traffickers; and

(3) the United States should work through the United Nations and other multilateral organizations to determine the feasibility of establishing and using a force and should assist in the establishment of such a force if the President determines the proposal to be feasible.

SEC. 1011.[12] COUNTER-DRUG TECHNOLOGY ASSESSMENT CENTER
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TITLE XI—OPERATION DESERT SHIELD[13]

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TITLE XIV—GENERAL PROVISIONS

PART A—FINANCIAL AND BUDGET MATTERS

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SEC. 1405.[14] CONTROLS ON THE AVAILABILITY OF APPROPRIATION ACCOUNTS

(a)[15] PROCEDURES FOR CLOSING APPROPRIATION ACCOUNTS.—(1) Subchapter IV of chapter 15 of title 31, United States Code, (other than section 1558), is amended to read as follows: * * *

(b)[16] TRANSITION.—* * *

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PART C—GUARD AND RESERVE INITIATIVE

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SEC. 1432. FINDINGS AND SENSE OF CONGRESS REGARDING THE IMPORTANCE OF THE READY RESERVE

(a) FINDINGS.—The Congress finds that—

(1) as a result of the recent dramatic changes in Eastern Europe and the Soviet Union, the active military forces of the United States will be significantly reduced; and

(2) as a consequence of that reduction it will be necessary to rely increasingly, in the event of a threat to the national security, on the immediate availability of trained personnel of the Ready Reserve of the reserve components of the Armed Forces.

(b) SENSE OF CONGRESS.—In light of the finding in subsection (a), it is the sense of Congress that—

(1) the Secretary of Defense should take appropriate action to ensure that members of the Ready Reserve are made fully aware of their continuing obligation for immediate service in the active military forces in the event of a war or national emergency;

(2) the Secretary should use the annual muster provided for under section 687 of title 10, United States Code, as a means of alerting such personnel to that obligation; and

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[12] Sec. 1011 added a new sec. 1003A to title I of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1501 *et seq.*).

[13] Title XI authorized appropriations and transfers made by Public Law 101–403 for Operation Desert Shield, and addressed military personnel and procurement matters arising from Operation Desert Shield. See legislation relating to Iraq beginning at page 6.

[14] The President determined "* * * it to be in furtherance of the purposes of the [Foreign Assistance] Act [of 1961] that the functions authorized by the Act be performed without regard to section 1405 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510), and amendments contained therein.".

Furthermore, "[t]his determination shall apply only to funds appropriated to carry out the provisions of the Act that were appropriated for fiscal year 1984 and for prior fiscal years, and shall suspend the application of the provisions of section 1405 of the National Defense Authorization Act for Fiscal Year 1991, and amendments contained therein, through September 30, 1992." (Presidential Determination 91–21 of February 27, 1991; 56 F.R. 10771).

[15] See 31 U.S.C. 1551–1557, relating to DOD accounts.

[16] 31 U.S.C. 1551 note.

(3) the Secretary should ensure that adequate funds are made available, out of funds appropriated for the reserve components, to carry out the annual muster of such personnel.

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SEC. 1434. SENSE OF CONGRESS CONCERNING UNITED STATES ARMORED FORCES

(a) FINDINGS.—Congress makes the following findings:

(1) Dramatic political and military changes have occurred recently in Eastern Europe.

(2) The Warsaw Pact is no longer a credible military threat to the North Atlantic Treaty Organization (NATO).

(3) It appears that the heavy armored armies of both NATO and the Warsaw Pact will be substantially reduced as the result of arms control agreements or unilateral actions.

(4) There is a continued need for armor forces and many countries possess large inventories of modern tanks.

(5) The Soviet Union will still produce 1,400 new tanks in 1990.

(6) With significantly increased warning times of enemy attack, greater reliance will be placed on United States reserve component forces for armored heavy force reinforcement missions.

(7) There is a need to enhance the capabilities of armored forces of the reserve components to assume increased responsibilities for armored heavy force reinforcement missions.

(b) SENSE OF CONGRESS.—In light of the findings in subsection (a), it is the sense of the Congress that—

(1) the Army should take timely and necessary steps to enhance the capabilities of armored forces of the reserve components;

(2) the United States Army Armor Center should continue as the center for training, education, doctrine, and combat development for the armored forces of the United States, both active and reserve; and

(3) the United States Army Armor Center should ensure that the armored forces of the reserve components are adequately prepared to accept the increased role in armored heavy force reinforcement missions that will be assigned to them.

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PART D—ARMS CONTROL MATTERS [17]

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[17] For text, see *Legislation on Foreign Relations Through 2004*, vol. II, sec. F.

PART E—MATTERS RELATING TO ALLIES AND OTHER NATIONS

SEC. 1451.[18] RECIPROCAL LOGISTICAL SUPPORT * * *

SEC. 1452.[19] DEPARTMENT OF DEFENSE OMBUDSMAN FOR FOREIGN SIGNATORIES OF INTER-GOVERNMENTAL MEMORANDUMS OF AGREEMENT CONCERNING ACQUISITION MATTERS * * *

SEC. 1453.[20] EXPANSION OF SCOPE OF REQUIREMENTS RELATING TO DEFENSE MEMORANDA OF UNDERSTANDING AND RELATED AGREEMENTS * * *

SEC. 1454. COOPERATION WITH JAPAN ON TECHNOLOGICAL RESEARCH AND DEVELOPMENT

(a) FINDINGS.—Congress makes the following findings:

(1) Japan has developed highly sophisticated research and manufacturing capabilities.

(2) Those capabilities have produced technologies that can be usefully applied to the development and manufacture of both commercial products and defense equipment.

(3) The availability of those technologies to the United States would greatly enhance the development and manufacture of defense equipment for the Armed Forces of the United States.

(4) Since the exchange of notes between the United States and Japan on the transfer of Japanese military technologies in 1983, the level and quality of technological cooperation between the two countries have been unsatisfactory.

(5) Effective cooperation in technology research and development between the United States and Japan would enhance the security of both countries.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the United States and Japan should strengthen their cooperation with regard to technology that would contribute to the security of both countries;

(2) technological cooperation between the two countries should be based upon an equitable and mutual sharing of the costs and benefits of that cooperation; and

(3) the Secretary of Defense should improve the staffing, funding, and organization of those activities within the Department of Defense responsible for implementing and overseeing technological cooperation with Japan.

(c) COOPERATION ON RESEARCH AND DEVELOPMENT.—In light of the expressions in subsections (a) and (b), Congress urges and requests the President and directs the Secretary of Defense to pursue vigorously opportunities for the United States and Japan to cooperate in the development of technologies that benefit the security of both countries, particularly those technologies that have both commercial and military applications, commonly referred to as "dual-use" technologies.

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[18] Sec. 1451(a) amended sec. 2342(a) of title 10, United States Code, relating to cross-servicing agreements. Subsec. (b) added a new sec. 2350g to 10 U.S.C., relating to mutual defense agreements and occupational arrangements. Subsec. (c) made conforming amendments to earlier Defense appropriations.

[19] Sec. 1452 added a new 10 U.S.C. 2350h, relating to memorandums of agreement and DOD ombudsman for foreign signatories.

[20] Sec. 1453 amended sec. 2504(a) of title 10, U.S.C., redesignated as 10 U.S.C. 2531.

(d) COOPERATIVE RESEARCH AND DEVELOPMENT PROJECTS.—(1) Subject to paragraphs (2) and (3), of the funds authorized to be appropriated pursuant to section 201 for basic research, exploratory development, and advanced technology, $10,000,000 shall be available for research and development projects conducted jointly by the United States and Japan, pursuant to a memorandum of understanding or other formal agreement, for the purpose of—

(A) developing new conventional defense equipment; or

(B) modifying existing defense equipment to meet United States defense requirements.

(2)(A) Funds made available for research and development projects under paragraph (1) may be obligated and expended for a particular research project only if the Secretary of Defense determines that—

(i) the particular project will improve, through the application of emerging technology, the conventional defense capabilities of the United States and Japan; and

(ii) the applicable memorandum of understanding or other formal agreement provides for the sharing of costs on an equitable basis.

(B) The Secretary may delegate the performance of the responsibility to make determinations under subparagraph (A) only to the Deputy Secretary of Defense or the Under Secretary of Defense for Acquisition.

(3) None of the funds made available for research and development projects under paragraph (1) may be used for research and development under the Strategic Defense Initiative.

(e) STAFFING.—The Secretary of Defense is urged to increase the number of personnel assigned to the Office of the Deputy Under Secretary of Defense (International Programs) for the specific purpose of providing oversight of the joint research and development projects of the United States and Japan for which funds are made available under subsection (d).

SEC. 1455.[21] PERMANENT CEILING ON UNITED STATES ARMED FORCES IN JAPAN AND CONTRIBUTIONS BY JAPAN TO THE SUPPORT OF UNITED STATES FORCES IN JAPAN

(a)[22] PURPOSE.—It is the purpose of this section to require Japan to offset the direct costs (other than pay and allowances for United

[21] 10 U.S.C. 113 note.

[22] Sec. 8105 of the Department of Defense Appropriations Act, 1991 (Public Law 101–511; 104 Stat. 1902), provided the following:

"SEC. 8105. CONTRIBUTIONS BY JAPAN TO THE SUPPORT OF UNITED STATES FORCES IN JAPAN.—

"(a) PERMANENT CEILING ON UNITED STATES ARMED FORCES IN JAPAN.—After September 30, 1990, funds appropriated pursuant to an appropriation contained in this Act or any subsequent Act may not be used to support an end strength level of all personnel of the Armed Forces of the United States stationed in Japan at any level in excess of 50,000.

"(b) ANNUAL REDUCTION IN CEILING UNLESS SUPPORT FURNISHED.—Unless the President certifies to Congress before the end of each fiscal year that Japan has agreed to offset for that fiscal year the direct costs incurred by the United States related to the presence of all United States military personnel in Japan, excluding the military personnel title costs, the end strength level for that fiscal year of all personnel of the Armed Forces of the United States stationed in Japan may not exceed the number that is 5,000 less than such end strength level for the preceding fiscal year.

"(c) SENSE OF CONGRESS.—It is the sense of Congress that all those countries that share the benefits of international security and stability should share in the responsibility for that stability and security commensurate with their national capabilities. The Congress also recognizes that Japan has made a substantial pledge of financial support to the effort to support the

Continued

States military and civilian personnel) incurred by the United States related to the presence of United States military personnel in Japan.

(b) PERMANENT CEILING ON UNITED STATES ARMED FORCES IN JAPAN.—Funds appropriated pursuant to an authorization contained in this Act or any subsequent Act may not be used to support an end strength level of all personnel of the Armed Forces of the United States stationed in Japan at any level in excess of 50,000.

(c) SENSE OF CONGRESS ON ALLIED BURDEN SHARING.—(1) Congress recognizes that Japan has made a substantial pledge of financial support to the effort to support the United Nations Security Council resolutions on Iraq.

(2) It is the sense of Congress that—

(A) all countries that share the benefits of international security and stability should, commensurate with their national capabilities, share in the responsibility for maintaining that security and stability; and

(B) given the economic capability of Japan to contribute to international security and stability, Japan should make contributions commensurate with that capability.

(d) NEGOTIATIONS.—At the earliest possible date after the date of the enactment of this Act, the President shall enter into negotiations with Japan for the purpose of achieving an agreement before September 30, 1991, under which Japan offsets all direct costs (other than pay and allowances for United States military and civilian personnel) incurred by the United States related to the presence of all United States military personnel stationed in Japan.

(e) EXCEPTIONS.—(1) This section shall not apply in the event of a declaration of war or an armed attack on Japan.

(2) This section may be waived by the President if the President—

(A) declares an emergency or determines that such a waiver is required by the national security interests of the United States; and

(B) immediately informs the Congress of the waiver and the reasons for the waiver.

SEC. 1456. LIMITATION ON THE COSTS TO THE UNITED STATES FOR PAYMENTS TO FOREIGN NATIONALS EMPLOYED AT BASES OUTSIDE THE UNITED STATES

(a) LIMITATION.—The costs incurred by the United States during fiscal year 1991 for the payment of salaries and other remuneration to foreign nationals who are employed at United States military installations located outside the United States shall be reduced by the Secretary of Defense at a rate necessary to achieve a 25 percent reduction in such costs by the end of fiscal year 1991

United Nations Security Council resolutions on Iraq. The Congress also recognizes that Japan has a greater economic capability to contribute to international security and stability than any other member of the international community and wishes to encourage Japan to contribute commensurate with that capability.

"(d) EXCEPTIONS.—(1) This section shall not apply in the event of a declaration of war or an armed attack on Japan.

"(2) The President may waive the limitation in this section for any fiscal year if he declares that it is in the national interest to do so and immediately informs Congress of the waiver and the reasons for the waiver.

"(e) EFFECTIVE DATE.—This section shall take effect on the date of enactment of this Act.".

below the amount that was requested for such costs in the budget for fiscal year 1991 submitted by the President to Congress under section 1105 of title 31, United States Code.

(b) WAIVER AUTHORITY AND REQUIREMENT OF NOTIFICATION.—The Secretary of Defense may waive the requirement of subsection (a) if the Secretary determines that the national security interests of the United States require such action. If the requirement of subsection (a) is waived, the Secretary shall notify Congress of that action and include in that notification the reasons for such waiver.

SEC. 1457.[23] ANNUAL REPORT ON UNITED STATES SECURITY ARRANGEMENTS AND COMMITMENTS WITH OTHER NATIONS

(a) REPORT REQUIREMENTS.—The President shall submit to the congressional committees specified in subsection (d) each year[24] a report (in both classified and unclassified form) on United States security arrangements with, and commitments to, other nations.

(b) MATTERS TO BE INCLUDED.—The President shall include in each such report the following:

(1) A description of—

(A) each security arrangement with, or commitment to, other nations, whether based upon (i) a formal document (including a mutual defense treaty, a pre-positioning arrangement or agreement, or an access agreement), or (ii) an expressed policy; and

(B) the historical origins of each such arrangement or commitment.

(2) An evaluation of the ability of the United States to meet its commitments based on the projected reductions in the defense structure of the United States.

(3) A plan for meeting each of those commitments with the force structure projected for the future.

(4) An assessment of the need to continue, modify, or discontinue each of those arrangements and commitments in view of the changing international security situation.

(c) DEADLINE FOR REPORT.—The President[25] shall submit the report required by subsection (a) not later than February 1 of each year.

(d)[26] SPECIFIED CONGRESSIONAL COMMITTEES.—The congressional committees referred to in subsection (a) are the following:

(1) The Committee on Armed Services, the Committee on Appropriations, and the Select Committee on Intelligence of the Senate.

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[23] 50 U.S.C. 404c.

[24] Sec. 1504(c)(4)(C)(i) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 507) struck out "shall submit to the Committees on Armed Services and on Foreign Affairs of the House of Representatives and the Committees on Armed Services and Foreign Relations of the Senate each year" and inserted in lieu thereof "shall submit to the congressional committees specified in subsection (d) each year".

[25] Sec. 1504(c)(4)(C)(ii) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 507) struck out "(1) Except as provided in paragraph (2), the President" and inserted in lieu thereof "The President"; and struck out para. (2), relating to the due date of the 1991 report.

[26] Sec. 1504(c)(4)(C)(iii) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 507) added subsec. (d).

(2) The Committee on Armed Services,[27] the Committee on Appropriations, and the Permanent Select Committee on Intelligence of the House of Representatives.

SEC. 1458.[28] ECONOMIC SANCTIONS AGAINST THE REPUBLIC OF IRAQ

If the President considers that the taking of such action would promote the effectiveness of the economic sanctions of the United Nations and the United States imposed with respect to Iraq, and is consistent with the national interest, the President may prohibit, for such a period of time as he considers appropriate, the importation into the United States of any or all products of any foreign country that has not—

(1) prohibited—

(A) the importation of products of Iraq into its customs territory, and

(B) the export of its products to Iraq; or

(2) given assurances satisfactory to the President that such import and export sanctions will be promptly implemented.

SEC. 1459. HUMANITARIAN ASSISTANCE FOR LITHUANIA

(a) SENSE OF CONGRESS.—It is the sense of Congress that the President should provide appropriate forms of humanitarian assistance for Lithuania. Such assistance is necessary as a result of the courageous efforts of the Lithuanian people to rebuild an independent society and state.

(b) AGENCY FOR INTERNATIONAL DEVELOPMENT.—The Administrator of the Agency for International Development should—

(1) furnish such humanitarian assistance through the International Committee of the Red Cross, the Lithuanian Red Cross, CARITAS, and other voluntary relief agencies;

(2) solicit private sector donations of humanitarian assistance for Lithuania;

(3) cooperate with private relief agencies attempting to provide humanitarian assistance to Lithuania; and

(4) make all necessary arrangements to ensure that Lithuanians begin to receive critical humanitarian assistance as soon as possible.

(c) HUMANITARIAN ASSISTANCE FOR LATVIA, ESTONIA, ETC.—Where possible, appropriate humanitarian assistance should also be extended to Latvia and Estonia as well as needy republics of the Soviet Union.

(d) DEFINITION.—As used in this section, the term "humanitarian assistance" includes—

(1) medical supplies;

(2) oil, gas, and fuel for emergency vehicles and medical facilities;

(3) water purification supplies, materials for immunization, and other materials needed to prevent the outbreak of contagious diseases and to safeguard public health;

(4) food and clothing; and

[27] Sec. 1067(10) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 774) struck out "Committee on National Security" and inserted in lieu thereof "Committee on Armed Services".

[28] 50 U.S.C. 1701 note.

(5) transportation of private donations of humanitarian assistance.

PART F—MISCELLANEOUS MATTERS

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SEC. 1465.[29] **OVERSEAS WORKLOAD PROGRAM** * * * [Repealed—1993]

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SEC. 1469. ANNUAL PRESENTATION FOR CONGRESSIONAL DEFENSE LEADERSHIP ON UNITED STATES NATIONAL MILITARY STRATEGY

(a) SENSE OF CONGRESS.—It is the sense of Congress that the President should provide for an annual presentation to be given to the congressional defense leaders named in subsection (b) on the national military strategy of the United States. That presentation should particularly cover the theater and strategic nuclear components of the national military strategy and should include a discussion of (1) nuclear targeting policy and requirements, and (2) the implications of such nuclear targeting policy and requirements for (A) theater and strategic nuclear force structure and operations, and (B) defense resources and their allocation.

(b) DEFINITION.—The congressional defense leaders referred to in subsection (a) are—

(1) the chairmen and ranking minority members of the Committees on Armed Services of the Senate and House of Representatives;[30] and

(2) the chairmen and ranking minority members of the Defense Subcommittees of the Committees on Appropriations of the Senate and House of Representatives.

PART G—CONGRESSIONAL FINDINGS, POLICIES, AND COMMENDATIONS

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SEC. 1472. COMMENDATION OF UNITED STATES MILITARY PERSONNEL FOR PHILIPPINE EARTHQUAKE RELIEF EFFORT

(a) FINDINGS.—Congress makes the following findings:

(1) The members of the United States Air Force, Marine Corps, and Navy serving in the Pacific region have given substantial and significant assistance to the Government and people of the Republic of the Philippines following a severe earthquake on July 16, 1990, in the Philippines which resulted in the deaths of over 1,600 people and severe dislocation and devastation.

(2) United States military personnel stationed in the Philippines have traditionally exhibited a strong respect and admiration for the people of the Philippines.

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[29] Formerly at 10 U.S.C. 2341 note. Repealed by sec. 1431(b)(1) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1833). See 10 U.S.C. 2349.

[30] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. The Committee on National Security subsequently returned to the name "Committee on Armed Services"; see sec. 1067 of Public Law 106–65 (113 Stat. 774).

(3) A Marine Corps pilot was killed in a helicopter crash during an earthquake relief mission on July 20, 1990.

(4) The United States Air Force has flown over 220 sorties, including medical evacuations, to assist in earthquake relief.

(5) The Marine Corps has flown over 250 aircraft missions and has transported via helicopter over 1,000 Philippine nationals and more than 500,000 pounds of cargo.

(6) Navy medical personnel from the Subic Bay naval facility have provided critical medical assistance to those injured in the earthquake.

(7) More than 1,140 tons of supplies and equipment have been airlifted to the Philippines or transported over land to Baguio City and Cabanatuan City, areas devastated by the earthquake.

(8) Military civil engineering teams have restored more than half the damaged water systems and all of the electrical systems and have provided heavy equipment to aid in rescue operations.

(9) 650 units of blood were donated by personnel of Clark Air Force Base and other Pacific Air Force bases and 120 units of blood were donated by personnel of the Subic Bay Naval Facility.

(b) SENSE OF CONGRESS.—It is the sense of Congress—

(1) that the earthquake relief assistance provided by United States military forces has played an essential role in the Philippine recovery from the July 16, 1990, earthquake; and

(2) that those members of the United States Armed Forces and their dependents who have assisted in Philippine earthquake relief should be commended by Congress for their considerable efforts on behalf of the Philippine people in their recovery efforts.

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TITLE XVII—MISSILE TECHNOLOGY CONTROLS

Sec. 1701. Policy.
Sec. 1702. Amendment to the Export Administration Act of 1979.
Sec. 1703. Amendment to the Arms Export Control Act of 1979.
Sec. 1704. Report on missile proliferation.[31]

SEC. 1701.[32] POLICY

It should be the policy of the United States to take all appropriate measures—

(1) to discourage the proliferation, development, and production of the weapons, material, and technology necessary to produce or acquire missiles that can deliver weapons of mass destruction;

(2) to discourage countries and private persons in other countries from aiding and abetting any states from acquiring such weapons, material, and technology;

[31] Sec. 1704 was superseded by sec. 1097 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1489), and repealed by sec. 1097(g) of that Act.

[32] 50 U.S.C. app. 2402 note.

(3) to strengthen United States and existing multilateral export controls to prohibit the flow of materials, equipment, and technology that would assist countries in acquiring the ability to produce or acquire missiles that can deliver weapons of mass destruction, including missiles, warheads and weaponization technology, targeting technology, test and evaluation technology, and range and weapons effect measurement technology; and

(4) with respect to the Missile Technology Control Regime ("MTCR") and its participating governments—

(A) to improve enforcement and seek a common and stricter interpretation among MTCR members of MTCR principles;

(B) to increase the number of countries that adhere to the MTCR; and

(C) to increase information sharing among United States agencies and among governments on missile technology transfer, including export licensing, and enforcement activities.

SEC. 1702.[33] **AMENDMENT TO THE EXPORT ADMINISTRATION ACT OF 1979** * * *

SEC. 1703.[34] **AMENDMENT TO THE ARMS EXPORT CONTROL ACT** * * *

SEC. 1704.[35] * * * [Repealed—1991]

TITLE XVIII—STRATEGIC ENVIRONMENTAL RESEARCH AND DEVELOPMENT PROGRAM[36]

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DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

SEC. 2001. SHORT TITLE

This division may be cited as the "Military Construction Authorization Act for Fiscal Year 1991".

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TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

SEC. 2501. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) IN GENERAL.—The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Infrastructure program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2502 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

[33] For text of amendment to sec. 6 and the addition of new sec. 11B of the Export Administration Act of 1979, see *Legislation on Foreign Relations Through 2004*, vol. III, sec. J.

[34] Sec. 1703 added chapter 7, secs. 71–74 to the Arms Export Control Act. For text, see *Legislation on Foreign Relations Through 2004*, vol. I–A.

[35] Sec. 1704 was superseded by sec. 1097 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1489), and repealed by sec. 1097(g) of that Act.

[36] For text of title XVIII, see *Legislation on Foreign Relations Through 2004*, vol. IV, sec. L.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) funds made available for the North Atlantic Treaty Organization Infrastructure program should be used primarily for—

(A) verifying or implementing the terms of conventional arms control agreements;

(B) recoupment owed by the United States for projects completed before the date of the enactment of this Act; and

(C) the completion of any construction project the construction of which began before October 1, 1990; and

(2) the United States should work in consultation with the other countries of the North Atlantic Treaty Organization to restructure such program in such a manner that the funds provided to the program by the Secretary of Defense will be expended primarily for the purposes referred to in paragraph (1).

SEC. 2502. AUTHORIZATION OF APPROPRIATIONS, NATO

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1990, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Infrastructure program as authorized by section 2501, in the amount of $192,700,000.

SEC. 2503. STUDY AND REPORT BY THE SECRETARY OF DEFENSE

(a) IN GENERAL.—(1) The Secretary of Defense shall conduct a study to determine the feasibility and desirability of permitting the North Atlantic Treaty Organization to utilize, for training and exercise purposes, military installations in the United States being closed by the Department of Defense under other provisions of law.

(2) In carrying out such a study, the Secretary shall consider—

(A) the exact purposes for which such installations could be appropriately and effectively used by NATO; and

(B) the manner in which NATO would pay for the use of such installations.

(b) REPORT.—The Secretary shall transmit, by not later than March 15, 1991, to the Committees on Armed Services of the Senate and House of Representatives[37] a report containing the results of the study required by subsection (a), together with such comments and recommendations as the Secretary considers appropriate.

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TITLE XXVII—EXPIRATION OF AUTHORIZATIONS

SEC. 2701. EXPIRATION OF AUTHORIZATIONS

(a) EXPIRATION OF AUTHORIZATIONS AFTER TWO YEARS.—Except as provided in subsection (b), all authorizations contained in titles XXI, XXII, XXIII, XXIV, and XXV for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure program (and authorizations

[37] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. The Committee on National Security subsequently returned to the name "Committee on Armed Services"; see sec. 1067 of Public Law 106–65 (113 Stat. 774).

of appropriations therefor) shall expire on October 1, 1993,[38] or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1994,[39] whichever is later.

(b) EXCEPTION.—The provisions of subsection (a) do not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure program (and authorizations of appropriations therefor) for which appropriated funds have been obligated before October 1, 1992, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1993, whichever is later, for construction contracts, land acquisition, family housing projects and facilities, or contributions to the NATO Infrastructure program.

TITLE XXVIII—GENERAL PROVISIONS

PART A—CONSTRUCTION, LEASING, IMPROVEMENTS, DISPOSAL, AND UTILIZATION OF MILITARY INSTALLATIONS AND FACILITIES

SEC. 2801. DUAL BASING

(a) DEFINITION.—In this section—

(1) the term "dual basing" means the stationing of units of the Armed Forces on a permanent basis at military installations inside the United States with rotating short-term assignments to military installations outside the United States for purposes of training, carrying out exercises, meeting obligations to other nations, or carrying out other international security responsibilities of the United States; and

(2) the term "United States" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, and any other commonwealth, territory, or possession of the United States.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that dual basing has significant potential for being an effective and efficient method by which this Nation can reduce its defense spending and also meet its world-wide security responsibilities and assist in reducing tension and increasing stability internationally.

(c) REPORT.—The Secretary of Defense shall carry out a study of the manner in which dual basing could be implemented and shall transmit, by no later than March 15, 1991, to the Committees on Armed Services of the Senate and the House of Representatives[40] a report containing a detailed description of how dual basing could be implemented, together with an assessment of the scheduling, costs, benefits, and difficulties involved in such an implementation as compared to the methods of basing military personnel used by the military departments on the date of the enactment of this Act.

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[38] Sec. 2702(a)(1) of Public Law 102–190 (105 Stat. 1535) struck out "October 1, 1992" and inserted in lieu thereof "October 1, 1993".

[39] Sec. 2702(a)(2) of Public Law 102–190 (105 Stat. 1535) struck out "fiscal year 1993," and inserted in lieu thereof "fiscal year 1994,".

[40] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. The Committee on National Security subsequently returned to the name "Committee on Armed Services"; see sec. 1067 of Public Law 106–65 (113 Stat. 774).

SEC. 2802. LIMITATION ON CONSTRUCTION AT CROTONE, ITALY

(a) IN GENERAL.—None of the funds available to the Department of Defense, including contributions for the North Atlantic Treaty Organization Infrastructure program pursuant to section 2806 of title 10, United States Code, may be obligated or expended (whether obligated before the date of enactment of this Act or not) in connection with relocating functions of the Department of Defense located at Torrejon Air Force Base, Madrid, Spain, on June 15, 1989, to Crotone, Italy, or any other location outside the United States until the Secretary of Defense makes the certification and files the information required in subsection (b)(2).

(b) CONSIDERATION AND CERTIFICATION.—(1) Promptly after the date of enactment of this Act, the President shall notify the other member nations of the North Atlantic Treaty Organization that the United States seeks to have placed on the agenda of the next meeting of the North Atlantic Council of NATO the following questions:

(A) In light of the changed threat to NATO, is the retention of the 401st Tactical Fighter Wing in the Southern Region of NATO necessary?

(B) In light of the changes in Europe, is continuation of construction of a new airbase at Crotone, Italy, desirable?

(C) Are there existing airbases in NATO, and particularly in the Southern Region of NATO, which could serve as an adequate base for the 401st Tactical Fighter Wing, rendering construction of a new base unnecessary?

(D) Will the United States be authorized to use American aircraft based at Crotone, Italy, for military missions outside of the European theatre?

(2) After the North Atlantic Council of NATO meets, considers the questions listed in paragraph (1), and passes a resolution endorsing continuation of construction of a new airbase at Crotone, Italy, the Secretary of Defense shall certify to the congressional defense committees that such has occurred and shall transmit, along with such certification, a copy of the resolution adopted by the North Atlantic Council and a summary of the debate concerning each of the questions contained in paragraph (1).

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TITLE XXIX—DEFENSE BASE CLOSURES AND REALIGNMENTS

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PART B—OTHER PROVISIONS RELATING TO DEFENSE BASE CLOSURES AND REALIGNMENTS

SEC. 2921.[41] CLOSURE OF FOREIGN MILITARY INSTALLATIONS

(a) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) the termination of military operations by the United States at military installations outside the United States should be accomplished at the discretion of the Secretary of Defense at the earliest opportunity;

[41] 10 U.S.C. 2687 note.

(2) in providing for such termination, the Secretary of Defense should take steps to ensure that the United States receives, through direct payment or otherwise, consideration equal to the fair market value of the improvements made by the United States at facilities that will be released to host countries;

(3) the Secretary of Defense, acting through the military component commands or the sub-unified commands to the combatant commands, should be the lead official in negotiations relating to determining and receiving such consideration; and

(4) the determination of the fair market value of such improvements released to host countries in whole or in part by the United States should be handled on a facility-by-facility basis.

(b) RESIDUAL VALUE.—(1) For each installation outside the United States at which military operations were being carried out by the United States on October 1, 1990, the Secretary of Defense shall transmit, by no later than June 1, 1991, an estimate of the fair market value, as of January 1, 1991, of the improvements made by the United States at facilities at each such installation.

(2) For purposes of this section:

(A) The term "fair market value of the improvements" means the value of improvements determined by the Secretary on the basis of their highest use.

(B) The term "improvements" includes new construction of facilities and all additions, improvements, modifications, or renovations made to existing facilities or to real property, without regard to whether they were carried out with appropriated or nonappropriated funds.

(c) ESTABLISHMENT OF SPECIAL ACCOUNT.—(1) There is established on the books of the Treasury a special account to be known as the "Department of Defense Overseas Military Facility Investment Recovery Account". Except as provided in subsection (d),[42] amounts paid to the United States, pursuant to any treaty, status of forces agreement, or other international agreement to which the United States is a party, for the residual value of real property or improvements to real property used by civilian or military personnel of the Department of Defense shall be deposited into such account.

(2) Money deposited in the Department of Defense Overseas Military Facility Investment Recovery Account shall be available to the Secretary of Defense for payment, as provided in appropriation Acts, of costs incurred by the Department of Defense[43] in connection with—

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[42] Sec. 344(b)(2)(A) of Public Law 102–190 (105 Stat. 1345) struck out "Any" and inserted in lieu thereof "Except as provided in subsection (d),". Sec. 344(c) of that Act further provided:

"(c) EFFECTIVE DATE.—The amendments made by this section shall apply with regard to the transfer or disposal of any real property or facility pursuant to title II of the Defense Authorization Amendments and Base Closure and Realignment Act or the Defense Base Closure and Realignment Act of 1990 occurring on or after the date of the enactment of this Act.".

[43] Sec. 2827(a)(1) of Public Law 102–484 (106 Stat. 2610) struck out "in connection with facility maintenance and repair and environmental restoration at military installations in the United States." and inserted text beginning with "in connection with—" through subpara. (B). Para. (2) of that subsection struck out a second sentence in this paragraph which read: "Funds

Continued

(A) facility maintenance and repair and environmental restoration at military installations in the United States; and

(B) facility maintenance and repair and compliance with applicable environmental laws at military installations outside the United States that the Secretary anticipates will be occupied by the Armed Forces for a long period.

(3)[43] Funds in the Department of Defense Overseas Facility Investment Recovery Account shall remain available until expended.

(d)[44] AMOUNTS CORRESPONDING TO THE VALUE OF PROPERTY PURCHASED WITH NONAPPROPRIATED FUNDS.—(1) In the case of a payment referred to in subsection (c)(1) for the residual value of real property or improvements at an overseas military facility, the portion of the payment that is equal to the depreciated value of the investment made[45] with nonappropriated funds shall be deposited in the reserve account established under section 204(b)(7)(C)[46] of the Defense Authorization Amendments and Base Closure and Realignment Act. The Secretary may use amounts in the account (in such an aggregate amount as is provided in advance by appropriation Acts) for the purpose of acquiring, constructing, or improving commissary stores and nonappropriated fund instrumentalities.

(2) As used in this subsection:

(A) The term "nonappropriated funds" means funds received from—

(i) the adjustment of, or surcharge on, selling prices at commissary stores fixed under section 2685 of title 10, United States Code; or

(ii) a nonappropriated fund instrumentality.

(B) The term "nonappropriated fund instrumentality" means an instrumentality of the United States under the jurisdiction of the Armed Forces (including the Army and Air Force Exchange Service, the Navy Resale and Services Support Office, and the Marine Corps exchanges) which is conducted for the comfort, pleasure, contentment, or physical or mental improvement of members of the Armed Forces.

(e)[47] NEGOTIATIONS FOR PAYMENTS-IN-KIND.—(1)[48] Before the Secretary of Defense enters into negotiations with a host country regarding the acceptance by the United States of any payment-in-kind in connection with the release to the host country of improvements made by the United States at military installations in the

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in the Account shall remain available until expended.". Para. (3) of that subsection added a new para. (3) here.

[44] Sec. 344(b)(2)(B) of Public Law 102–190 (105 Stat. 1345) added subsec. (d). Sec. 344(c) of that Act further provided:

"(c) EFFECTIVE DATE.—The amendments made by this section shall apply with regard to the transfer or disposal of any real property or facility pursuant to title II of the Defense Authorization Amendments and Base Closure and Realignment Act or the Defense Base Closure and Realignment Act of 1990 occurring on or after the date of the enactment of this Act." [December 5, 1991].

[45] Sec. 2821(c) of Public Law 101–510 (106 Stat. 2608) struck out "the value of the improvements carried out" and inserted in lieu thereof "the depreciated value of the investment made".

[46] Sec. 1505(e)(2) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 515) struck out "section 204(b)(4)(C)" and inserted in lieu thereof "section 204(b)(7)(C)".

[47] Sec. 2827(b) of Public Law 102–484 (106 Stat. 2610) added subsec. (e).

[48] Sec. 1305(c)(1)(A) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2891) added para. designation "(1)".

host country, the Secretary shall submit to the appropriate congressional committees a written notice regarding the intended negotiations.[49]

(2)[50] The notice shall contain the following:

(A) A justification for entering into negotiations for payments-in-kind with the host country.

(B) The types of benefit options to be pursued by the Secretary in the negotiations.

(C) A discussion of the adjustments that are intended to be made in the future-years defense program or in the budget of the Department of Defense for the fiscal year in which the notice is submitted or the following fiscal year in order to reflect costs that it may no longer be necessary for the United States to incur as a result of the payments-in-kind to be sought in the negotiations.

(3) For purposes of this subsection, the appropriate congressional committees are—

(A) the Committee on Armed Services,[51] the Committee on Appropriations, and the Defense Subcommittees of the Committee on Appropriations of the House of Representatives; and

(B) the Committee on Armed Services, the Committee on Appropriations, and the Subcommittee on Defense[52] of the Committee on Appropriations of the Senate.

(f)[53] * * * [Repealed—1996]

(f)[54] OMB REVIEW OF PROPOSED SETTLEMENTS.—(1)[55] The Secretary of Defense may not enter into an agreement of settlement with a host country regarding the release to the host country of improvements made by the United States to facilities at an installation located in the host country until 30 days after the date on which the Secretary submits the proposed settlement to the Director of the Office of Management and Budget. The prohibition set forth in the preceding sentence shall apply only to agreements of settlement for improvements having a value in excess of

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[49] Sec. 1305(c)(1)(B) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2891) struck out "a written notice to the congressional defense committees containing a justification for entering into negotiations for payments-in-kind with the host country and the types of benefit options to be pursued by the Secretary in the negotiations.", and inserted in lieu thereof "to the appropriate congressional committees a written notice regarding the intended negotiations.".

[50] Sec. 1305(c)(1)(C) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2891) added paras. (2) and (3).

[51] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. Sec. 1067(10) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 774) subsequently struck out "Committee on National Security" and inserted in lieu thereof "Committee on Armed Services".

[52] Sec. 1073(d)(4)(C)(i) of Public Law 105–85 (111 Stat. 1905) struck out "Defense Subcommittees" and inserted in lieu thereof "Subcommittee on Defense".

[53] Sec. 2827(c) of Public Law 102–484 (106 Stat. 2610) added subsec. (f), which had required the Secretary of Defense to report annually on the status and use of the Overseas Military Facility Investment Recovery Account, was repealed by sec. 1063(b)(1) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 444).

[54] Originally added as subsec. (g) by sec. 2924(b) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1931). Redesignated as subsec. (f) by sec. 1063(b)(2) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 444).

[55] Sec. 2817(b) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 3057) added para. designation "(1)" and added para. (2).

$10,000,000.[56] The Director shall evaluate the overall equity of the proposed settlement. In evaluating the proposed settlement, the Director shall consider such factors as the extent of the United States capital investment in the improvements being released to the host country, the depreciation of the improvements, the condition of the improvements, and any applicable requirements for environmental remediation or restoration at the installation.

(2)[55] Each year, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives[57] a report on each proposed agreement of settlement that was not submitted by the Secretary to the Director of the Office of Management and Budget in the previous year under paragraph (1) because the value of the improvements to be released pursuant to the proposed agreement did not exceed $10,000,000.

(g)[58] CONGRESSIONAL OVERSIGHT OF PAYMENTS-IN-KIND.—(1) Before[59] concluding an agreement for acceptance of military construction or facility improvements as a payment-in-kind, the Secretary of Defense shall submit to Congress a notification on the proposed agreement. Any such notification shall contain the following:

(A) A description of the military construction project or facility improvement project, as the case may be.

(B) A certification that the project is needed by United States forces.

(C) An explanation of how the project will aid in the achievement of the mission of those forces.

(D) A certification that, if the project were to be carried out by the Department of Defense, appropriations would be necessary for the project and it would be necessary to provide for the project in the next future-years defense program.

(2) Before[60] concluding an agreement for acceptance of host nation support or host nation payment of operating costs of United States forces as a payment-in-kind, the Secretary of Defense shall submit to Congress a notification on the proposed agreement. Any such notification shall contain the following:

(A) A description of each activity to be covered by the payment-in-kind.

(B) A certification that the costs to be covered by the payment-in-kind are included in the budget of one or more of the

[56] Sec. 2817(a) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 3057) inserted "The prohibition set forth in the preceding sentence shall apply only to agreements of settlement for improvements having a value in excess of $10,000,000." after the first sentence.

[57] Sec. 1073(d)(4)(C)(ii) of Public Law 105–85 (111 Stat. 1906) struck out "the Committees on Armed Services of the Senate and House of Representatives" and inserted in lieu thereof "the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives". Sec. 1067(10) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 774) subsequently struck out "Committee on National Security" and inserted in lieu thereof "Committee on Armed Services".

[58] Sec. 1305(c)(2) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2892) added this subsec. as subsec. (h). Redesignated as subsec. (g) by sec. 1063(b)(2) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 44).

[59] Sec. 1031(b)(1) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1603) struck out "Not less than 30 days before" and inserted in lieu thereof "Before".

[60] Sec. 1031(b)(2) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1603) struck out "Not less than 30 days before" and inserted in lieu thereof "Before".

military departments or that it will otherwise be necessary to provide for payment of such costs in a budget of one or more of the military departments.

(C) A certification that, unless the payment-in-kind is accepted or funds are appropriated for payment of such costs, the military mission of the United States forces with respect to the host nation concerned will be adversely affected.

(3)[61] When the Secretary submits a notification of a proposed agreement under paragraph (1) or (2), the Secretary may then enter into the agreement described in the notification only after the end of the 30-day period beginning on the date on which the notification is submitted or, if earlier, the end of the 14-day period beginning on the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of title 10, United States Code.

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DIVISION C—OTHER NATIONAL DEFENSE AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

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PART B—RECURRING GENERAL PROVISIONS[62]

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SEC. 3124. FUND TRANSFER AUTHORITY

(a) IN GENERAL.—Funds appropriated pursuant to this title may be transferred to other agencies of the Government for the performance of the work for which the funds were appropriated, and funds so transferred may be merged with the appropriations of the agency to which the funds are transferred.

(b) NUCLEAR DIRECTED ENERGY WEAPONS CONCEPTS.—The Secretary of Defense may transfer to the Secretary of Energy not more than $100,000,000 of the funds appropriated for fiscal year 1991 to the Department of Defense for research, development, test, and evaluation for the Defense Agencies for the performance of work on the Strategic Defense Initiative. Funds so transferred—

(1) may be used only for research and testing for nuclear directed energy weapons concepts, including plant and capital equipment related thereto; and

(2) shall be merged with funds appropriated to the Department of Energy.

(c) INERTIAL CONFINEMENT FUSION PROGRAMS.—The Secretary of Defense may transfer to the Secretary of Energy not more than

[61] Sec. 1031(b)(3) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1603) added para. (3).

[62] Sec. 803 of Public Law 102–25 provided the following:

"SEC. 803. APPLICABILITY OF RECURRING GENERAL PROVISIONS

"The provisions contained in part B of title XXXI of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1829) shall apply with respect to the authorizations provided in this title in the same manner as such provisions apply with respect to the authorizations provided in title XXXI of such Act.".

$12,000,000 of the funds appropriated to the Department of Defense for the inertial confinement fusion program. Funds so transferred shall be merged with funds appropriated to the Department of Energy national security programs for research and development.

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PART C—MISCELLANEOUS

SEC. 3131. REMANUFACTURE OF NUCLEAR STOCKPILE WEAPONS

(a) REPORT ON REMANUFACTURE OF NUCLEAR STOCKPILE WEAPONS.—The Secretary of Energy, in consultation with the Secretary of Defense, shall prepare a report on remanufacture of nuclear stockpile weapons that will require replacement at the end of their stockpile life. The report shall include the following information:

(1) A specification of the nuclear warheads and bombs now in the stockpile which will not be replaced at the end of their stockpile life.

(2) A case-by-case analysis of the technical requirements and estimated costs to prepare for the remanufacture of each certified nuclear weapon design scheduled for retention in the stockpile.

(3) A specification of certified weapons designs designated for retention in paragraph (2) that could be remanufactured and recertified for the stockpile without conducting a nuclear explosive test.

(4) Identification of those certified weapons designs included in paragraph (2) requiring changes to permit remanufacture which could be recertified with a single nuclear explosive proof test to demonstrate proper performance, and the minimum essential yield for each such test.

(5) Identification of those certified weapon designs planned for retention in paragraph (2) requiring modification for remanufacture to the degree that more than one test is indicated to assure proper performance, and the minimum essential number and yield of tests required for each design so modified.

(6) A description of other options that may be employed in the event of reduced reliance on nuclear test explosions, ranging from increasingly extensive modifications of existing designs to the introduction of entirely new designs, and the costs in time, funds, numbers, and yields of tests, and the postulated national security benefits of each of these options clearly set forth in a manner which allows the relative costs and benefits of all the options presented to be directly compared.

(b) SUBMISSION OF REPORT.—The Secretary of Energy shall submit an unclassified report with a classified appendix not later than February 1, 1991.

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SEC. 3142. SENSE OF CONGRESS ON NEGOTIATING AGREEMENTS TO ACHIEVE A COMPREHENSIVE TEST BAN

The Congress, mindful of the commitment of the United States, the Soviet Union, and Great Britain in the Limited Test Ban Treaty of 1963 and in the Non-Proliferation Treaty of 1968 to seek the

discontinuance of all test explosions of nuclear weapons for all time and of the commitment which shall be legally binding on the parties upon ratification of the Treaty on the Limitation of Underground Nuclear Weapons Tests to "continue their negotiations with a view toward achieving a solution to the problem of the cessation of all underground nuclear weapons tests", states that it is the sense of Congress that the United States shares a special responsibility with the Soviet Union to continue the bilateral Nuclear Testing Talks to achieve further limitations on nuclear testing, including the achievement of a verifiable comprehensive test ban.

PART D—INTERNATIONAL FISSILE MATERIAL AND WARHEAD CONTROL

SEC. 3151. PRODUCTION OF PLUTONIUM AND HIGHLY ENRICHED URANIUM FOR NUCLEAR WEAPONS AND DISPOSAL OF NUCLEAR STOCKPILES

(a) PRODUCTION BY THE SOVIET UNION.—Congress urges the President of the Soviet Union and the Supreme Soviet of the Soviet Union—

(1) to cease production by the Soviet Union of plutonium;

(2) to maintain the cessation in production by the Soviet Union of highly-enriched uranium for weapons that was announced on April 7, 1989.

(b) TECHNICAL ASPECTS OF FISSILE MATERIAL MONITORING AND NUCLEAR WARHEAD DISMANTLEMENT.—Should the President determine that future international agreements should provide for dismantlement of nuclear warheads and a ban on further production of fissile materials for weapons, then the Congress urges the President to seek to establish with the Soviet Union a joint technical working group to examine and demonstrate cooperative technical monitoring and inspection arrangements that could be applied to the design and verification of these potential provisions.

(c) REPORT ON VERIFICATION TECHNIQUES.—(1) The President shall prepare a comprehensive technical report on the verification matters described in paragraph (2).

(2) The report shall describe the on-site monitoring techniques, inspection arrangements, and national technical means that could be used by the United States to verify the actions of other nations with respect to the following:

(A) Dismantlement of nuclear warheads in the event that a future agreement between the United States and the Soviet Union should provide for such dismantlement to be carried out in a mutually verifiable manner.

(B) A mutual United States-Soviet ban, leading to a multilateral, global ban, on the production of additional quantities of plutonium and highly-enriched uranium for nuclear weapons.

(C) The end use or ultimate disposal of any plutonium and highly enriched uranium recovered from the dismantlement of nuclear warheads.

(3) In order to prepare the report required by paragraph (1), the President shall establish a Technical Advisory Committee on Verification of Fissile Material and Nuclear Warhead Controls, to

be composed of preeminent government and nongovernment experts in the fields of radiation detection, nondestructive examination, nuclear safeguards, nuclear materials production, and nuclear warhead dismantlement. Such committee, which shall be established not later than December 31, 1990, shall advise the President on the availability, use, and further development of techniques which could be applied to the verification of the prospective actions described in paragraph (2).

(4) The report required by paragraph (1) shall be submitted to Congress not later than April 30, 1991. The report shall be submitted in unclassified form with such classified appendices as may be necessary.

SEC. 3152. DEVELOPMENT AND DEMONSTRATION OF MEANS FOR WARHEAD DISMANTLEMENT VERIFICATION

The Secretary of Energy may use funds available to the Secretary for national security programs of the Department of Energy for fiscal year 1991 to carry out a program to develop and demonstrate a means for verifiable dismantlement of nuclear warheads.

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DIVISION D—ECONOMIC ADJUSTMENT, DIVERSIFICATION, CONVERSION, AND STABILIZATION

SEC. 4001.[63] SHORT TITLE

This division may be cited as the "Defense Economic Adjustment, Diversification, Conversion, and Stabilization Act of 1990".

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TITLE XLIII—EXPANSION OF BUSINESS CAPITAL ASSISTANCE PROGRAMS

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SEC. 4303. EXPANSION OF EXPORT FINANCING FOR GOODS AND SERVICES PRODUCED BY FIRMS AND EMPLOYEES FORMERLY ENGAGED IN DEFENSE PRODUCTION

(a) EXPORT-IMPORT BANK.—

(1) SENSE OF CONGRESS ON PLAN FOR EXPANSION.—It is the sense of Congress that the United States businesses undergoing transition from defense production to nondefense production will need assistance in seizing export markets overseas. Therefore, in order to provide financial support for such businesses, as well as meeting other normal demands on its resources, the annual direct lending authority of the Export-Import Bank of the United States should be increased by at least 150 percent from the fiscal year 1990 level over the five-year period beginning October 1, 1990.

(2) REPORT OF FEASIBILITY.—Before September 30, 1990, the President, acting with the assistance of the Committee and after consulting the Board of Directors of the Export-Import Bank of the United States and other experts in government and the private sector, shall transmit to the Congress a report

[63] 10 U.S.C. 2391 note.

assessing the feasibility and desirability of a program for increasing the amount of direct loan authority in the manner described in paragraph (1) and the factors considered in making such assessment.

(3) TRANSITION TO NONDEFENSE PRODUCTION REQUIRED TO BE CONSIDERED.—In determining whether to provide financial support for an export transaction, the Export-Import Bank of the United States shall take into account, to the extent feasible and in accordance with applicable standards and procedures established by the bank in consultation with the Committee, the fact that the product or service is produced or provided by any business or group of workers which—

(A) was substantially and seriously affected by defense budget reductions; and

(B) is in transition from defense to nondefense production.

(b) SBA USE OF AUTHORITY FOR EXPORT FINANCING ASSISTANCE.—In determining whether to provide financial or other assistance under the Small Business Act, title VIII of the Omnibus Trade and Competitiveness Act of 1988, or any program referred to in section 4301 to any small business involved in, or attempting to become involved in, the export of any product or service, the Administrator of the Small Business Administration shall take into account the fact that such product or service is produced or provided by any business or group of workers which—

(1) has been substantially and seriously affected by defense budget reductions; and

(2) is in transition from defense to nondefense production.

(c) COORDINATION AND INTEGRATION OF ACTIVITIES AND ASSISTANCE WITH OTHER AGENCIES.—In providing additional financial assistance pursuant to any increase in loan authority under this division—

(1) Federal agencies concerned with international trade shall participate in the process of coordination conducted by the Committee pursuant to section 4004(c)(1);[64] and

(2) such Federal agencies shall attempt, to the maximum extent practicable, to coordinate and integrate the activities and assistance of the agencies in support of exports, including financial assistance in the form of direct loans, loan guarantees, and insurance, general trade promotion, marketing assistance, and marketing and commercial information, in a manner consistent with the purposes of this division (and the amendments made by this division to other provisions of law).

(d) REPORTING.—The annual reports made by the Export-Import Bank of the United States and the Administrator of the Small Business Administration and the annual economic stabilization and adjustment report under section 4004(c)(3)[65] of this division shall include a description of the extent to which the bank and the Administrator are—

[64] Sec. 1062(c)(1) of Public Law 102–190 (105 Stat. 1475) struck out "section 4003(b)" and inserted in lieu thereof "section 4004(c)(1)".

[65] Sec. 1062(c)(2) of Public Law 102–190 (105 Stat. 1475) struck out "section 4003" and inserted in lieu thereof "section 4004(c)(3)".

(1) providing financing described in subsections (a)(2) and (b), respectively, to businesses or groups of workers which were substantially and seriously affected by defense budget reductions; and

(2) coordinating and integrating export support and financing activities with other Federal agencies.

* * * * * * *

v. National Defense Authorization Act for Fiscal Years 1990 and 1991

Partial text of Public Law 101–189 [H.R. 2461], 103 Stat. 1352, approved November 29, 1989; as amended by Public Law 101–165 [Department of Defense Appropriations Act, 1990; H.R. 3072], 103 Stat. 1112, approved November 21, 1989; Public Law 101–510 [National Defense Authorization Act for Fiscal Year 1991, H.R. 4739], 104 Stat. 1485, approved November 5, 1990; Public Law 102–484 [National Defense Authorization Act for Fiscal Year 1993; H.R. 5006], 106 Stat. 2315, approved October 23, 1992; Public Law 103–160 [National Defense Authorization Act for Fiscal Year 1994; H.R. 2401], 107 Stat. 1547, approved November 30, 1993; Public Law 104–106 [National Defense Authorization Act for Fiscal Year 1996; S. 1124], 110 Stat. 186, approved February 10, 1996; Public Law 104–201 [National Defense Authorization Act for Fiscal Year 1997; H.R. 3230], 110 Stat. 2422, approved September 23, 1996; and by Public Law 106–65 [National Defense Authorization Act for Fiscal Year 2000; S. 1059], 113 Stat. 512, approved October 5, 1999

AN ACT To authorize appropriations for fiscal years 1990 and 1991 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE

This Act may be cited as the "National Defense Authorization Act for Fiscal Years 1990 and 1991".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS

(a) ORGANIZATION OF ACT INTO DIVISIONS.—This Act is organized into three divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

* * * * * * *

SEC. 3. EXPIRATION OF AUTHORIZATIONS FOR FISCAL YEARS AFTER 1990

Authorizations of appropriations, and of personnel strength levels, in this Act for any fiscal year after fiscal year 1990 are effective only with respect to appropriations made during the first session of the One Hundred First Congress.

SEC. 4. CONGRESSIONAL DEFENSE COMMITTEES DEFINED

For purposes of this Act, the term "congressional defense committees" means the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives.[1]

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DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

PART A—FUNDING AUTHORIZATIONS

* * * * * * *

SEC. 106. CHEMICAL DEMILITARIZATION PROGRAM

Funds are hereby authorized to be appropriated for the destruction of lethal chemical weapons in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (Public Law 99–145; 99 Stat. 747) as follows:

(1) $263,700,000 for fiscal year 1990.

(2) $317,700,000 for fiscal year 1991.

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PART H—CHEMICAL MUNITIONS

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SEC. 172. CHEMICAL MUNITIONS EUROPEAN RETROGRADE PROGRAM

(a) LIMITATIONS ON RETROGRADE PROGRAM.—The Secretary of Defense may not obligate any funds appropriated for fiscal year 1990 for the purpose of carrying out the chemical munitions European retrograde program involving the withdrawal from Europe of chemical munitions until each of the following occurs:

(1) The Secretary submits to the Committees on Armed Services of the Senate and House of Representatives[1] a certification—

(A) that an adequate United States binary chemical munitions stockpile will exist before any withdrawal of the existing stockpile from its present location in Europe is carried out; and

(B) that the plan for such retrograde program is based on—

(i) minimum technical risk;

(ii) minimum operational risk; and

(iii) maximum safety to the public.

(2) The Secretary submits to those committees a revised concept plan for such retrograde program that includes a description of—

[1] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. The Committee on National Security subsequently returned to the name "Committee on Armed Services"; see sec. 1067 of Public Law 106–65 (113 Stat. 774).

(A) the full budgetary effect of the retrograde program; and

(B) the potential effect of the retrograde program on the chemical demilitarization program.

(b) LIMITATION ON TRANSFER OF FUNDS.—The Secretary of Defense may not transfer any funds from the chemical demilitarization emergency response program for the retrograde program referred to in subsection (a).

SEC. 173. CHEMICAL DEMILITARIZATION CRYOFRACTURE PROGRAM

(a)[2] * * * [Repealed—1996]

(b) USE OF FISCAL YEAR 1989 FUNDS.—Of the amount authorized and appropriated for fiscal year 1989 for the chemical demilitarization program, $16,300,000 shall be obligated immediately for continued research and development testing of the cryofracture program.

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TITLE III—OPERATION AND MAINTENANCE

PART A—AUTHORIZATION OF APPROPRIATIONS

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SEC. 304. HUMANITARIAN ASSISTANCE

(a) PURPOSE.—Funds appropriated pursuant to the authorizations in subsections (a)(16) and (b)(16) of section 301[3] for humanitarian assistance shall be used for the purpose of providing transportation for humanitarian relief for persons displaced or who are refugees because of the invasion of Afghanistan by the Soviet Union. Of the funds appropriated for each of fiscal years 1990 and 1991 pursuant to such subsections for such purpose, not more than $3,000,000 may be used for distribution of humanitarian relief supplies to the non-Communist resistance organization at or near the border between Thailand and Cambodia.

(b) AUTHORITY TO TRANSFER FUNDS.—The Secretary of Defense may transfer to the Secretary of State not more than $3,000,000 of the funds appropriated pursuant to such subsections for each of fiscal years 1990 and 1991 for humanitarian assistance to provide for—

(1) the payment of administrative costs incurred in providing the transportation described in subsection (a); and

(2) the purchase or other acquisition of transportation assets for the distribution of humanitarian relief supplies in the country of destination.

(c) TRANSPORTATION UNDER DIRECTION OF THE SECRETARY OF STATE.—Transportation for humanitarian relief provided with funds appropriated pursuant to such subsections for humanitarian

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[2] Sec. 151 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 214) repealed subsec. (a), which read as follows:

"(a) PROGRAM.—The Secretary of Defense, to the extent funds are available for the purpose, shall proceed as expeditiously as possible with the project to develop an operational cryofracture facility at the Tooele Army Depot, Utah.".

[3] Sec. 301 authorized $13,000,000 for humanitarian assistance for each fiscal year 1990 ((a)(16)) and 1991 ((b)(16)).

assistance shall be provided under the direction of the Secretary of State.

(d) MEANS OF TRANSPORTATION TO BE USED.—Transportation for humanitarian relief provided with funds appropriated pursuant to such subsections for humanitarian assistance shall be provided by the most economical commercial or military means available, unless the Secretary of State determines that it is in the national interest of the United States to provide transportation other than by the most economical means available. The means used to provide such transportation may include the use of aircraft and personnel of the reserve components of the Armed Forces.

(e) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to such subsections for humanitarian assistance shall remain available until expended, to the extent provided in appropriation Acts.

(f)[4] REPORTS TO CONGRESS.—* * * [Repealed—1990]

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PART B—LIMITATIONS

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SEC. 311. PROHIBITION ON PAYMENT OF SEVERANCE PAY TO FOREIGN NATIONALS IN THE EVENT OF CERTAIN BASE CLOSURES

(a) * * *

(b) * * *

(c) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) in the event a United States military facility located in a foreign country is closed (or activities at the facility are curtailed) at the request of the government of that country, such government should be responsible for the payment of severance pay to foreign nationals in the country whose employment by the United States or by a contractor under a contract with the United States is terminated as a result of the closure or curtailment; and

(2) in negotiating a status-of-forces agreement or other country-to-country agreement with the government of a foreign country, the President should endeavor to include in the agreement a provision that would require the government of that country to pay severance pay to foreign nationals in that country whose employment is terminated as a result of the closing of, or the curtailment of activities at, a United States military facility in that country, if the closing or curtailment is at the request of the government of that country.

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SEC. 314. REDUCTION IN THE NUMBER OF CIVILIAN PERSONNEL AUTHORIZED FOR DUTY IN EUROPE

(a) REDUCTION REQUIRED.—The number of civilian employees of the Department of Defense authorized for duty in Europe on the date of the enactment of this Act shall be reduced by a number

[4] Sec. 303(f)(5) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1526) repealed subsec. (f), which had required the Secretary of Defense to submit to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives several reports on the funds obligated for humanitarian relief under various humanitarian relief laws.

equal to the number of remaining authorizations for employees of the department that—

(1) were related to intermediate-range nuclear forces on December 8, 1987; and

(2) are unnecessary as a result of the Treaty between the United States of America and the Union of Soviet Socialist Republics on the Elimination of their Intermediate-range and Shorter-range Missiles, signed on December 8, 1987 (commonly referred to as the "INF Treaty").

(b) DEADLINE FOR REDUCTION.—The reduction in the number of employees authorized for duty in Europe required by subsection (a) shall be completed not later than October 1, 1991.

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TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

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PART B—CHANGES TO ACQUISITION STATUTES

SEC. 815.[5] DEFENSE MEMORANDA OF UNDERSTANDING AND RELATED AGREEMENTS * * *

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PART C—OTHER ACQUISITION POLICY MATTERS

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SEC. 823. LIMITATION ON AUTHORITY TO WAIVE BUY AMERICAN ACT REQUIREMENT

(a)[6] DETERMINATION BY SECRETARY OF DEFENSE.—(1) If the Secretary of Defense, after consultation with the United States Trade Representative, determines that a foreign country which is party to an agreement described in paragraph (2) has violated the terms of that agreement by discriminating against certain types of products produced in the United States that are covered by the agreement, the Secretary of Defense shall rescind the Secretary's blanket waiver of the Buy American Act with respect to such types of products produced in that foreign country.

(2) An agreement referred to in paragraph (1) is any agreement, including any reciprocal defense procurement memorandum of understanding, between the United States and a foreign country pursuant to which the Secretary of Defense has prospectively waived the Buy American Act for certain products produced in that country.

(b) REPORT TO CONGRESS.—The Secretary of Defense shall submit to Congress a report on the amount of Department of Defense purchases from foreign entities in fiscal years 1990 and 1991. Such report shall separately indicate the dollar value of items for which the Buy American Act was waived pursuant to any agreement described in subsection (a)(2), the Trade Agreements Act of 1979 (19

[5] Sec. 815 amended 10 U.S.C. 2504.

[6] 41 U.S.C. 10b–2. Repeated in annual Department of Defense Appropriations Acts. See, for example, sec. 8032 of Public Law 108–287 (118 Stat. 977).

U.S.C. 2501 et seq.), or any international agreement to which the United States is a party.

(c) BUY AMERICAN ACT DEFINED.—For purposes of this section, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

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SEC. 825.[7] STUDY AND REPORT ON DEFENSE EXPORT FINANCING

(a) STUDY.—The President shall conduct a study of export financing of defense articles. In the course of the study, the President shall—

(1) examine the effect of export financing on the ability of United States industry to compete in the international market for defense products;

(2) determine the extent to which other countries support commercial financing for defense exports through official government credit programs;

(3) determine the extent to which United States private capital is used to support defense exports and the obstacles that United States lending institutions face in providing additional support; and

(4) determine the feasibility and desirability of using existing or new Government export guarantee programs to provide greater private capital support for United States defense exports.

(b) REPORT.—Not later than 120 days after the date of enactment of this Act, the President shall submit to Congress a report on the findings of the study under subsection (a).

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PART F—MISCELLANEOUS

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SEC. 852.[8] PROCUREMENT FROM COUNTRIES THAT DENY ADEQUATE AND EFFECTIVE PROTECTION OF INTELLECTUAL PROPERTY RIGHTS

(a) SENSE OF CONGRESS.—It is the sense of Congress that it should be a very important consideration in the procurement of property, services, or technology by the Department of Defense whether such procurement is from any person of any country which has been identified by the United States Trade Representative, on the advice of the Commissioner of Patents and Trademarks in the Department of Commerce and the Register of Copyrights, pursuant to section 182(a)(2) of the Trade Act of 1974 (19 U.S.C. 2242)[9] as

[7] In a memorandum for the Director of the Office of Management and Budget of March 7, 1990 (55 F.R. 10033), the President delegated "to the Director of the Office of Management and Budget the authority for conducting a study of export financing of defense articles and reporting to the Congress on the findings of such study as required by section 825".

[8] Sec. 1302(a) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1668) struck out subsec. 852(b), which had required the Secretary of Defense to report to the Committees on Armed Services, on Finance, and on the Judiciary of the Senate and the Committees on Armed Services, on Ways and Means, and on the Judiciary of the House of Representatives, on this matter.

[9] For text, see *Legislation on Foreign Relations Through 2004*, vol. III, sec. J.

denying adequate and effective protection of intellectual property rights or fair and equitable market access to United States persons that rely upon intellectual property protection.

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TITLE IX—MATTERS RELATING TO NATO MEMBER NATIONS AND OTHER ALLIES

PART A—CONVENTIONAL FORCE REDUCTIONS IN EUROPE

SEC. 901. FRAMEWORK FOR DETERMINING CONVENTIONAL FORCE REQUIREMENTS IN A CHANGING THREAT ENVIRONMENT

(a) EVALUATION OF EFFECT OF WARSAW PACT REDUCTIONS AND OF POSSIBLE CFE AGREEMENT.—The Secretary of Defense shall submit to the congressional defense committees a report providing the Secretary's evaluation of the effect upon requirements of the United States for conventional forces and for military spending that could be anticipated under the following assumptions:

(1) The full implementation of the unilateral force reductions in, and subsequent reorganization of, forces of the Soviet Union described by the President of the Soviet Union on December 7, 1988, and the unilateral force reductions subsequently announced by the other members of the Warsaw Pact.

(2) Entry into force of a conventional arms control agreement establishing rough parity in conventional forces in Europe between forces of the North Atlantic Treaty Organization and the Warsaw Pact at equal levels (at approximately 85 to 90 percent of NATO's current inventory) of tanks, artillery, armored troop carriers, combat helicopters, and land-based combat aircraft.

(b) MATTERS TO BE INCLUDED IN EVALUATION.—In carrying out the evaluation required by subsection (a) of the unilateral force reductions referred to in paragraph (1) of that subsection and the potential effect of an agreement referred to in paragraph (2) of that subsection, the Secretary shall include in the evaluation (at a minimum) the following (stated for both the near-term and mid-term):

(1) An assessment of the threat to NATO under the assumptions specified in each of paragraphs (1) and (2) of subsection (a).

(2) The effect on the defense strategy of the United States for meeting its NATO commitments in the changing threat environment, including the effect on the ability of NATO to defend against an attack by the Warsaw Pact (A) on short warning, or (B) during a crisis in Europe.

(3) The effect on—

(A) the mix of active and reserve forces of the United States;

(B) the ratio of (i) conventional forces of the United States deployed in the European theater, to (ii) conventional forces of the United States deployed in the continental United States; and

(C) air and sea lift requirements.

(3) The effect on operational military concepts of the United States and NATO (such as Follow-on Forces Attack (FOFA), AirLand Battle, Maritime Strategy, and Rapid Reinforcement)

that were initially developed to counter the large advantage of the Warsaw Pact in conventional land forces in the European theater.

(4) The effect on equipment requirements of the United States for meeting its commitments to NATO in the 1990s.

(c) TIME FOR SUBMISSION.—The report required by subsection (a) shall be submitted concurrently with the submission to Congress of the President's budget for fiscal year 1991 pursuant to section 1105 of title 31, United States Code. The report shall be submitted in both classified and unclassified form.

SEC. 902. IMPLICATIONS OF MUTUAL REDUCTIONS IN CONVENTIONAL FORCES IN EUROPE BY NATO AND WARSAW PACT MEMBER NATIONS

(a) COMMENDATION OF PRESIDENT'S CONVENTIONAL ARMS REDUCTION INITIATIVE.—Congress commends and supports the President's conventional arms control initiative announced in Brussels on May 29, 1989, in which the President proposed, and the North Atlantic Treaty Organization (NATO) agreed, that NATO expand its negotiating position at the negotiations on reductions in conventional forces in Europe (begun in Vienna on March 9, 1989, and known as the "CFE Talks") to include—

(1) substantial reductions by each side to equal ceilings of helicopters and combat aircraft; and

(2) a reduction to a common ceiling of United States military personnel stationed in Western Europe and Soviet military personnel stationed in Eastern Europe.

(b) PRESIDENTIAL REPORT.—(1) Not later than six months after the date of the enactment of this Act, the President shall submit to Congress an unclassified report, with classified annexes as necessary, on the foreign policy and military implications to NATO and to the Warsaw Pact of significant reductions of conventional forces by NATO and Warsaw Pact countries to a ceiling which is the same for both sides.

(2) The report shall address possible force reduction scenarios for a second round of CFE negotiations and shall be based upon two different assumptions with regard to the level of reductions in personnel and equipment to be made. Under the first assumption, personnel and equipment would be reduced to a level 25 percent below current NATO levels. Under the second assumption, personnel and equipment would be reduced to a level 50 percent below current NATO levels.

(3) The report shall include the following:

(A) A comprehensive net assessment of the current balance between NATO forces and Warsaw Pact forces and of the overall trends in that balance, including an assessment of the trends in active and reserve forces and in total equipment holdings in stationed and indigenous forces.

(B) A description of the likely alternative force postures that could be adopted by member nations of both alliances (particularly by the United States and the Soviet Union) under each of the assumptions analyzed, together with a description of the possible effects of restructuring of both NATO and Warsaw Pact forces in Europe for defensive purposes.

(C) A statement of the costs (or savings) to the United States, over at least a seven-year period, estimated to be associated with each force posture described under subparagraph (B), together with an analysis of how those costs (or savings) were determined.

(D) An analysis of the implications for NATO strategy, security, and military policy under each of the reduction levels referred to in paragraph (2), including a net assessment of the resulting balance between NATO forces and Warsaw Pact forces.

(E) An assessment of the effects under each of the reduction levels referred to in paragraph (2) (including the alternative force postures under each assumption) upon the stability of the conventional balance of forces in Europe.

(F) An assessment of the ability of NATO to defend Europe under each of the assumed reduction levels in the event of an attack by the Warsaw Pact (i) on short warning, or (ii) during a crisis in Europe.

(G) An assessment of the effects under each of the reduction levels referred to in paragraph (2) on—

(i) the short-range nuclear force requirements of NATO;

(ii) the requirements of the United States for POMCUS and war-reserve stocks;

(iii) the requirements of NATO for airlift and sealift based in the United States and for reinforcing units from the United States; and

(iv) the ability of the United States to meet global military requirements.

SEC. 903. REPORT ON VERIFICATION MEASURES FOR POSSIBLE CONVENTIONAL ARMS CONTROL AGREEMENT

(a) REPORT.—The President shall submit to Congress a report on the types of measures that would be required to verify the proposal for reductions in conventional forces in Europe adopted by the member nations of the North Atlantic Treaty Organization (NATO) on May 30, 1989.

(b) MATTERS TO BE INCLUDED IN REPORT.—The President shall include in the report under subsection (a) the following:

(1) A discussion of the types of information that it would be necessary for the parties to such an agreement to exchange for such verification.

(2) A discussion of the range of options under consideration by the executive branch for defining what constitutes a militarily significant violation of a conventional arms control agreement.

(3) A description of the national technical means, on-site inspections, and other cooperative measures that would be necessary to detect violations of such an agreement, including—

(A) an analysis of the measures that would be required to monitor (i) the withdrawal and demobilization of military personnel, and (ii) the withdrawal and (if required by the agreement) the destruction of military equipment provided for in any such agreement; and

(B) the President's judgment on those on-site inspections and confidence building measures under consideration that

are the most acceptable, and the least acceptable, to the NATO alliance and the Warsaw Pact, including an assessment of the counterintelligence aspects of such measures for NATO.

(4) A discussion of the procedures the NATO alliance would follow in the event of a violation of such an agreement by a member of the Warsaw Treaty Organization.

(c) DATA BASE ANALYSIS.—(1) The report under subsection (a) shall also include a comprehensive analysis of—

(A) the uncertainties in the data bases to be used by United States intelligence with respect to the military forces of NATO member nations and Warsaw Pact member nations located in the proposed areas of reduction;

(B) the uncertainties in the estimates of the trends in such forces; and

(C) the differences in the data bases and counting rules used by the United States, the allies of the United States, and the Warsaw Pact member nations.

(2) The analysis under paragraph (1) shall address separately the uncertainties in the estimates of each of the following:

(A) Active forces.

(B) Reserve forces.

(C) Equipment subject to reductions and ceilings.

(D) Indigenous forces.

(E) Stationed forces.

(d) SUBMISSION OF REPORT.—The report required by subsection (a) shall be submitted not later than March 1, 1990. The report shall include such comments and recommendations as the President determines appropriate. The report shall be submitted in both classified and unclassified versions.

PART B—BURDEN SHARING

SEC. 911.[10] REDUCTION IN AUTHORIZED END STRENGTH FOR THE NUMBER OF MILITARY PERSONNEL IN EUROPE * * * [Repealed—1990]

SEC. 912.[11] ACTIVE-DUTY FORCES IN EUROPE OF MEMBER NATIONS OF NATO

(a) FINDINGS.—Congress makes the following findings:

(1) Member nations of the North Atlantic Treaty Organization (NATO), at the initiative of the President, have presented to the nations of the Warsaw Pact a comprehensive proposal concerning reductions in conventional forces in Europe for consideration in the negotiations on Conventional Armed Forces in Europe (CFE).

(2) An agreement based on that proposal would significantly enhance security and stability in Europe and the cause of peace worldwide.

[10] Sec. 911, which would have amended sec. 1002(c)(1) of the Department of Defense Authorization Act, 1985 (22 U.S.C. 1928 note), to reduce end strength of U.S. military personnel in Europe, effective September 30, 1991, was repealed by sec. 406(c) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1546). Sec. 406 of that Act amended sec. 1002(c)(1) of the Department of Defense Authorization Act, 1985, and provided further criteria for military force reduction.

[11] 22 U.S.C. 1928 note.

(3) Irrespective of developments in the CFE negotiations, several member nations of NATO are considering making significant unilateral reductions over the next several years in the number of their active-duty forces in Europe.

(4) Such unilateral reductions in active-duty forces before an agreement on CFE enters into force would—

(A) undercut efforts by NATO to improve its conventional defense posture in Europe, increase reliance by NATO on the threat of the early use of nuclear weapons to deter aggression, and undermine the NATO arms control negotiating posture in the CFE negotiations; and

(B) exacerbate longstanding burdensharing tensions among member nations of NATO.

(5) Despite shifts in relative economic power from the United States to some of the major allies of the United States, the costs of mutual defense continue to be borne disproportionately by the United States.

(6) Adjustments in burdensharing are long overdue.

(b) DEFINITIONS.—For purposes of this section:

(1) The term "active-duty forces in Europe" means those active-duty military personnel assigned to permanent duty ashore in European member nations of NATO, except that such term does not include INF-related forces.

(2) The term "INF-related forces" means those active-duty military personnel assigned to permanent duty ashore in European member nations of NATO who are to be demobilized or withdrawn from Europe as a result of the elimination of the intermediate-range nuclear weapons of the United States pursuant to the Treaty between the United States of America and the Union of Soviet Socialist Republics on the Elimination of their Intermediate-range and Shorter-range Missiles, signed on December 8, 1987 (commonly referred to as the "INF Treaty").

(3) The term "U.S. end-strength level in Europe" means the actual number of active-duty forces in Europe of the Armed Forces of the United States at the end of a fiscal year.

(4) The term "allied forces end-strength level in Europe" means the actual number of active-duty forces in Europe of the armed forces of member nations of NATO (other than the United States) in Europe at the end of a fiscal year.

(c) BASELINE REPORT ON ACTIVE-DUTY FORCES IN EUROPE.—(1) Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees, the Committee on Foreign Relations of the Senate, and the Committee on Foreign Affairs[12] of the House of Representatives a report on the number of the active-duty forces in Europe of the member nations of NATO. The report shall identify the following:

(1) The U.S. end-strength level in Europe for fiscal year 1989.

(2) The allied forces end-strength level in Europe for fiscal year 1989.

[12] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

(3) The actual number of active-duty forces in Europe of the armed forces of each member nation of NATO (other than the United States) at the end of fiscal year 1989.

(4) The ratio (expressed in terms of a percentage) of—

(A) the U.S. end-strength level in Europe; to

(B) the allied forces end-strength level in Europe.

(d) U.S.-ALLIED FORCES RATIO.—(1) The ratio identified for fiscal year 1989 under subsection (c)(4) is hereinafter in this section referred to as the "baseline U.S.-allied forces ratio".

(2) The ratio identified in an annual report under subsection (e) is hereinafter in this section referred to as the "U.S.-allied forces ratio".

(e) ANNUAL REPORT ON MAINTAINING ACTIVE-DUTY FORCES IN EUROPE.—(1) During each of the fiscal years 1991, 1992, and 1993, the Secretary of Defense shall prepare a report identifying for the preceding fiscal year the following:

(A) The U.S. end-strength level in Europe for the fiscal year covered by the report.

(B) The allied forces end-strength level in Europe for such fiscal year.

(C) The ratio (expressed in terms of a percentage) of the U.S. end-strength level in Europe to the allied forces end-strength level in Europe for the fiscal year covered by the report.

(2) The Secretary shall include in each such report the following:

(A) A statement of whether there has been any change in the U.S.-allied forces ratio for such fiscal year compared with—

(i) the baseline U.S.-allied forces ratio; and

(ii) after fiscal year 1991, the U.S.-allied forces ratio for the fiscal year immediately preceding the fiscal year covered by such report.

(B) In the case of a change in the U.S.-allied forces ratio for such fiscal year, a description of the amount of such change and any explanation of the cause for such change.

(C) A discussion of any action taken by the United States during such fiscal year to encourage member nations of NATO (other than the United States) to increase the number of their active-duty forces in Europe and the results of that action.

(3)(A) Except as provided in subparagraph (B), the report required by paragraph (1) shall be submitted to the congressional defense committees, the Committee on Foreign Relations of the Senate, and the Committee on Foreign Affairs[13] of the House of Representatives not later than April 1 of each fiscal year referred to in such paragraph.

(B) The Secretary shall be considered to have complied with subparagraph (A) in a fiscal year if the Secretary includes the information required by paragraphs (1) and (2) in the report submitted in such year pursuant to section 1002(d)(2) of the Department of Defense Authorization Act, 1985 (22 U.S.C. 1928 note).

(f) LIMITATION ON OBLIGATION OF FUNDS.—(1) If the Secretary of Defense states in a report prepared under subsection (e) that the U.S.-allied forces ratio for the fiscal year covered by such report is

[13] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

greater than the baseline U.S.-allied forces ratio by more than one-tenth of one percentage point—

(A) the President shall undertake appropriate diplomatic initiatives to persuade the member nations of NATO (other than the United States) to increase the number of their active-duty forces in Europe so that the U.S.-allied forces ratio no longer exceeds the baseline U.S.-allied forces ratio; and

(B) funds appropriated to or for the use of the Department of Defense may not be obligated or expended for the next fiscal year to support active-duty forces in Europe of the Armed Forces of the United States at an end-strength level that would cause the U.S.-allied forces ratio in such fiscal year to exceed the baseline U.S.-allied forces ratio by more than one-tenth of one percentage point.

(2) The President may waive the provisions of paragraph (1) if the President determines that such action is critical to the national security of the United States. The President shall immediately notify Congress of such a waiver and the reasons for such waiver.

(3) Paragraph (1) shall not apply in the event of a declaration of war or an armed attack on any member nation of NATO or in the event that a comprehensive arms reduction agreement enters into force as a result of the negotiations on Conventional Armed Forces in Europe (CFE).

(g) END-STRENGTH PERMANENT CEILING.—Nothing in this section shall be construed to permit the obligation or expenditure of funds to support an end-strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO at any level in excess of the permanent ceiling specified in section 1002(c)(1) of the Department of Defense Authorization Act, 1985 (22 U.S.C. 1928 note).

SEC. 913. CONTRIBUTIONS BY JAPAN TO GLOBAL SECURITY

(a) FINDINGS.—Congress finds—

(1) that extraordinary political, economic, and social changes have occurred in Japan since World War II; and

(2) that, as a result of such changes, Japan is capable of assuming increased responsibility for its own security.

(b) SENSE OF CONGRESS.—It is the sense of Congress that, in view of the changes referred to in subsection (a), Japan should—

(1) assume increased responsibility for its own security;

(2) offset the direct costs incurred by the United States in deploying military forces for the defense of Japan, including costs (other than pay and allowances) related to the presence of United States military personnel in Japan; and

(3) make a contribution to the common defense that is more commensurate with its economic status by taking the following actions:

(A) Increasing expenditures for its Official Development Assistance program and its defense programs so that, by 1992, the level of spending by Japan on those programs (stated as a percentage of gross national product) will approximate the average of the levels of spending by the member nations of the North Atlantic Treaty Organization (NATO) on official development assistance and defense

programs (stated as a percentage of their respective gross national products).

(B) Devoting any increase in its spending for such Official Development Assistance program primarily to the Republic of the Philippines and to countries in regions of importance to global stability outside of East Asia, particularly to countries in Latin America, the Caribbean area, and the Mediterranean area.

(C) Devoting any increase in spending for that program primarily to untied grants and increasing the portion of total expenditures made in that program for those multilateral financial institutions of which Japan is a member.

(D) Designating those nations that are to be recipients of increased development assistance referred to in subparagraphs (A) through (C) after consultation with Japan's security partners.

(E) Completing, after consultation with the United States, the 5-year defense program of Japan for fiscal years 1986 through 1990 and, at the earliest possible date after the completion of that program, fulfilling the pledge made by the Prime Minister of Japan in May 1981 to defend the territory, airspace, and sea lanes of Japan to a distance of 1,000 nautical miles.

(F) Acquiring "off-the-shelf" military equipment from the United States (including completely equipped, long-range early warning aircraft, additional AEGIS weapon systems, refueling aircraft, munitions, and spare parts) in developing the capabilities called for in Japan's current and subsequent 5-year defense programs.

(c) NEGOTIATIONS AND CONSULTATIONS.—At the earliest practicable date after the enactment of this Act, the President shall—

(1) enter into negotiations with Japan for the purpose of achieving an agreement under which Japan agrees to make contributions sufficient in value to meet the direct cost of deploying United States forces for the defense of Japan; and

(2) issue an invitation to the Government of Japan and other governments of Pacific allies of the United States to engage in annual multilateral consultations on security concerns, consistent with the constitutions and national defense requirements of the respective countries.

(d) REPORTS.—(1) In order that Congress may determine whether further action is appropriate, not later than April 1, 1990, the President shall submit to the congressional committees described in paragraph (3) an initial report on the status and results of—

(A) the negotiations with Japan referred to in subsection (c)(1); and

(B) the invitation required under subsection (c)(2), including any consultations resulting from such invitation.

(2) Not later than one year after the date of the enactment of this Act, the President shall submit to such congressional committees a second report on the status and results of the matters referred to in paragraph (1).

(3) The congressional committees referred to in this subsection are the congressional defense committees, the Committee on Foreign Relations of the Senate, and the Committee on Foreign Affairs [14] of the House of Representatives.

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SEC. 915. UNITED STATES-REPUBLIC OF KOREA SECURITY RELATIONSHIP AND OTHER SECURITY MATTERS IN EAST ASIA

(a) FINDINGS.—Congress makes the following findings:

(1) Since the end of the Korean conflict, the Republic of Korea has made tremendous progress in rebuilding its economic and military strength.

(2) Despite this progress, an indigenous military balance has not yet been achieved on the Korean peninsula, and the Democratic People's Republic of Korea continues to pose a serious threat to the security of the Republic of Korea.

(3) The alliance between the United States and the Republic of Korea has contributed greatly to the security of both countries.

(4) The Republic of Korea has dedicated a large share of its national resources to its security, as shown by the fact that defense expenditures comprise approximately one-third of the national budget of the Republic of Korea.

(5) The United States has contributed a large amount of national resources, including approximately 44,000 military personnel, to protecting the security interests that it shares with the Republic of Korea.

(6) The presence of United States military personnel in the Republic of Korea contributes to the preservation of peace on the Korean peninsula, serves as a military deterrent, and is a tangible manifestation of the commitment of the United States to the defense of the Republic of Korea.

(7) In accordance with its obligations under the 1954 Mutual Defense Treaty with the Republic of Korea, the United States remains committed to the security and territorial integrity of the Republic of Korea.

(b) SENSE OF CONGRESS ON THE UNITED STATES-REPUBLIC OF KOREA SECURITY RELATIONSHIP.—(1) It is the sense of Congress that—

(A) the United States should review the missions, force structure, and locations of its military forces in the Republic of Korea and East Asia;

(B) the Republic of Korea should assume increased responsibility for its own security;

(C) the Republic of Korea should offset more of the direct costs incurred by the United States in deploying military forces for the defense of the Republic of Korea; and

(D) the United States and the Republic of Korea should consult on the feasibility and desirability of partial, gradual reductions of United States military forces in the Republic of Korea.

[14] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

(2) In order that Congress may determine whether further action is appropriate, not later than April 1, 1990, the President shall submit to the congressional committees described in subsection (d) an initial report on the status and results of any consultations held by the United States and the Republic of Korea on the matter referred to in paragraph (1)(D).

(3) Not later than one year after the date of the enactment of this Act, the President shall submit to such congressional committees a second report on the status and results of the consultations referred to in paragraph (1)(D).

(c) REPORT ON MILITARY PRESENCE IN EAST ASIA.—(1) Not later than April 1, 1990, the President shall submit to the congressional committees described in subsection (d) a report on the military presence of the United States in East Asia, including the Republic of Korea. The President shall include in such report a strategic plan relating to the continued United States military presence in East Asia.

(2) The report required by this subsection shall specifically include the following:

(A) An assessment of the implications of recent developments in the Soviet Union and the People's Republic of China for United States and allied security planning in East Asia.

(B) Identification of any changes in the missions, force structure, and locations of United States forces in East Asia that could strengthen the capabilities of such forces and lower the costs of maintaining such forces.

(C) A discussion of ways in which increased defense responsibilities and costs presently borne by the United States can be transferred to the allies of the United States in East Asia.

(D) Identification of the additional actions that the Republic of Korea can take to contribute more to its own security.

(E) A discussion of the feasibility of restructuring United States military forces stationed in Okinawa with the objective of improving civil-military relations and increasing United States training opportunities.

(F) A discussion of the status and prospects of negotiations between the United States and the Republic of the Philippines on the continued use of United States military installations in the Republic of the Philippines.

(G) An assessment of whether a requirement still exists for a regional security role for United States forces stationed in the Republic of Korea.

(3) The report required by this subsection shall also include a five-year plan with respect to the United States military presence in the Republic of Korea, including a discussion of the feasibility and desirability of the following:

(A) Partial, gradual reductions in the number of United States military personnel stationed in the Republic of Korea.

(B) Larger offsets by the Republic of Korea for the direct costs incurred by the United States in deploying military forces in defense of the Republic of Korea.

(C) The relocation of United States military personnel and facilities within the Republic of Korea that can be made to reduce friction between such personnel and the people of the Republic of Korea.

(D) Changes in the United Nations and United States-Republic of Korea bilateral command arrangements that would facilitate a transfer of certain military missions and command to the Republic of Korea.

(E) Confidence-building measures that could be promoted in northeast Asia to lessen tensions in the region.

(F) Additional actions the Republic of Korea could take to assume more responsibility for its own security.

(d) CONGRESSIONAL COMMITTEES TO RECEIVE REPORTS.—The congressional committees referred to in this section are the congressional defense committees, the Committee on Foreign Relations of the Senate, and the Committee on Foreign Affairs[15] of the House of Representatives.

PART C—EXPENDITURES IN EUROPE

SEC. 921. LIMITATION ON EXPENDITURES FOR RELOCATION OF FUNCTIONS LOCATED AT TORREJON AIR BASE, MADRID, SPAIN

(a) LIMITATION.—During the period beginning on June 27, 1989, and ending on October 1, 1993, not more than $360,000,000 may be obligated or expended from funds available to the Department of Defense for the purpose of relocating functions of the Department of Defense located at Torrejon Air Base, Madrid, Spain, on June 15, 1989, to any other location outside the United States.

(b) COUNTING OF NATO INFRASTRUCTURE CONTRIBUTIONS.—For purposes of subsection (a), contributions for the North Atlantic Treaty Organization Infrastructure program pursuant to section 2806 of title 10, United States Code, that are used (directly or indirectly) for the purpose of relocations described in subsection (a) shall be included in determining the amount expended on such relocations.

(c) COUNTING OF REPAYMENTS FOR NATO INFRASTRUCTURE FAMILY HOUSING COMMITMENTS.—(1) All amounts which the United States is obligated to pay under a housing reimbursement agreement described in paragraph (2) shall be deemed to be amounts obligated for purposes of subsection (a), regardless of when the agreement is entered into or when payments pursuant to the agreement are to be made.

(2) A housing reimbursement agreement for purposes of paragraph (1) is an agreement calling for the United States to make a series of annual payments as repayment for advances for the cost of construction, through the NATO Infrastructure program, of military family housing in connection with the relocations described in subsection (a).

(d) EXCLUSION FOR PERSONNEL EXPENSES.—There shall be excluded from the determination of amounts expended on relocations described in subsection (a) amounts spent for expenses associated

[15] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

with permanent change of station moves and other personnel-related expenses.

SEC. 922. SENSE OF CONGRESS CONCERNING UNITED STATES MILITARY FACILITIES IN NATO MEMBER COUNTRIES

(a) NATO POLICY.—It is the sense of Congress that the North Atlantic Treaty Organization (NATO) should adopt as its policy the following views expressed by the North Atlantic Assembly in its 1987 report entitled "NATO in the 1990s":

(1) The member nations of NATO should examine further measures that could be taken to relieve the United States from the burdens of its military presence in Europe.

(2) Such nations should consider the provision of base facilities for allied forces and equipment as a part of their national contributions to Western security.

(3) Such nations should not expect compensation for providing facilities that the NATO alliance decides are essential to implement NATO security strategy.

(4) All wealthier member nations of NATO should assist Portugal, Greece, and Turkey to ensure that NATO remains politically, economically, and militarily strong in its southern region as well as in its central and northern regions.

(b) UNITED STATES PAYMENT FOR USE OF BASE FACILITIES IN NATO COUNTRIES.—It is further the sense of Congress that the United States should not provide economic or security assistance to any NATO member nation as compensation or rent for the use of base facilities in that nation.

PART D—COOPERATIVE AGREEMENTS [16]

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SEC. 934.[17] TWO-YEAR EXTENSION OF AUTHORITY TO PROVIDE EXCESS DEFENSE ARTICLES FOR THE MODERNIZATION OF DEFENSE CAPABILITIES OF COUNTRIES ON NATO SOUTHERN AND SOUTHEASTERN FLANKS * * *

SEC. 935. AUTHORITY FOR EXCHANGE TRAINING THROUGH SPECIFIED PROFESSIONAL MILITARY EDUCATION INSTITUTION OUTSIDE THE UNITED STATES

(a) AUTHORITY.—The United States Army Russian Institute in Garmisch-Partenkirchen, Federal Republic of Germany, shall be treated for purposes of section 544 of the Foreign Assistance Act of 1961 (22 U.S.C. 2347c) as if it were located in the United States.

(b) EXPIRATION OF AUTHORITY.—Subsection (a) shall cease to be in effect upon the enactment in foreign assistance authorizing legislation of an amendment to section 544 of the Foreign Assistance Act of 1961 that provides the same authority as is provided by subsection (a).

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[16] Secs. 931 through 933 of Part D added or redesignated secs. 2350a–2350f to title 10, United States Code, and made conforming amendments to previous years' defense authorization legislation.

[17] Sec. 934 amended sec. 516(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(a)).

TITLE X—MATTERS RELATING TO ARMS CONTROL [18]

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TITLE XII—MILITARY DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES

SEC. 1201. FUNDING FOR MILITARY DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES

(a) IN GENERAL.—(1) Of the amounts appropriated pursuant to this Act for the Department of Defense for fiscal year 1990, not more than $450,000,000 shall be available from the sources and in the amounts specified in paragraph (2) for carrying out the drug interdiction and counter-drug activities provided for in this title.

(2) The amounts and sources referred to in paragraph (1) are as follows:

(A) $182,000,000 of the amounts appropriated pursuant to title I for fiscal year 1990.

(B) $28,000,000 of the amounts appropriated pursuant to title II for fiscal year 1990.

(C) $235,000,000 of the amounts appropriated pursuant to title III for fiscal year 1990.

(D) $5,000,000 of the amounts appropriated pursuant to division B for land acquisition and construction.

(b) OPERATIONS OF THE DEPARTMENT OF DEFENSE.—Of the amount made available under subsection (a), $284,000,000 shall be available to carry out the mission of the Department of Defense relating to drug interdiction and counter-drug activities (other than purposes specified in subsections (c) through (g)).

(c) NATIONAL GUARD.—Of the amount made available under subsection (a), $70,000,000 shall be available to provide funds under section 1207 for the purpose of drug interdiction by, and counter-drug activities of, the National Guard.

(d) INTEGRATION OF C3I ASSETS.—Of the amount made available under subsection (a), $27,000,000 shall be available to carry out the activities of the Department of Defense under section 1204.

(e) RESEARCH AND DEVELOPMENT.—Of the amount made available under subsection (a), $28,000,000 shall be available to carry out research and development activities referred to in section 1205.

(f) CIVIL AIR PATROL.—Of the amount made available under subsection (a), $1,000,000 shall be available to support Civil Air Patrol activities under section 1209.

(g) OTHER ASSISTANCE.—Of the amount made available under subsection (a), $40,000,000 shall be available to carry out the authority of the Secretary under section 1212 to provide additional counter-drug support to civilian agencies.

[18] For text, see *Legislation on Foreign Relations Through 2004*, vol. II, sec. F.

SEC. 1202.[19] DEPARTMENT OF DEFENSE AS LEAD AGENCY FOR THE DETECTION AND MONITORING OF AERIAL AND MARITIME TRANSIT OF ILLEGAL DRUGS * * *

SEC. 1203. BUDGET PROPOSALS RELATING TO DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES

The budget of the United States Government submitted to Congress under section 1105 of title 31, United States Code, for fiscal years 1991 and 1992 shall set forth separately the amount requested for the mission of the Department of Defense related to drug interdiction and counter-drug activities in support of civilian agencies.

SEC. 1204. COMMUNICATIONS NETWORK

(a) INTEGRATION OF NETWORK.—(1) The Secretary of Defense shall integrate into an effective communications network the command, control, communications, and technical intelligence assets of the United States that are dedicated (in whole or in part) to the interdiction of illegal drugs into the United States.

(2) The Secretary shall carry out this subsection in consultation with the Director of National Drug Control Policy.

(b) CONFORMING REPEAL.—Section 1103 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 102 Stat. 2042), is repealed.

SEC. 1205. RESEARCH AND DEVELOPMENT

The Secretary of Defense shall ensure that adequate research and development activities of the Department of Defense, including research and development activities of the Defense Advanced Research Projects Agency, are devoted to technologies designed to improve—

(1) the ability of the Department to carry out the detection and monitoring function of the Department under section 124 of title 10, United States Code, as added by section 1202; and

(2) the ability to detect illicit drugs and other dangerous and illegal substances that are concealed in containers.

SEC. 1206. TRAINING EXERCISES IN DRUG-INTERDICTION AREAS

(a) EXERCISES REQUIRED.—The Secretary of Defense shall direct that the armed forces, to the maximum extent practicable, shall conduct military training exercises (including training exercises conducted by the reserve components) in drug-interdiction areas.

(b) REPORT.—(1) Not later than February 1 of 1991 and 1992, the Secretary shall submit to Congress a report on the implementation of subsection (a) during the preceding fiscal year.

(2) The report shall include—

(A) a description of the exercises conducted in drug-interdiction areas and the effectiveness of those exercises in the national counter-drug effort; and

[19] Sec. 1202 added sec. 124 to 10 U.S.C. Sec. 1202 also repealed sec. 1102 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 102 Stat. 2042).

(B) a description of those additional actions that could be taken (and an assessment of the results of those actions) if additional funds were made available to the Department of Defense for additional military training exercises in drug-interdiction areas for the purpose of enhancing interdiction and deterrence of drug smuggling.

(c) DRUG-INTERDICTION AREAS DEFINED.—For purposes of this section, the term "drug-interdiction areas" includes land and sea areas in which, as determined by the Secretary, the smuggling of drugs into the United States occurs or is believed by the Secretary to have occurred.

SEC. 1207.[20] DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES OF THE NATIONAL GUARD * * *

SEC. 1208.[21] * * * [Repealed—1996]

SEC. 1209. CIVIL AIR PATROL

To the extent funds are available under section 1201(f), the Secretary of Defense shall pay for expenses incurred by the Civil Air Patrol in conducting drug surveillance flights.

SEC. 1210.[22] OPERATION OF EQUIPMENT USED TO TRANSPORT CIVILIAN LAW ENFORCEMENT PERSONNEL * * *

SEC. 1211.[23] RESTRICTION ON DIRECT PARTICIPATION BY MILITARY PERSONNEL * * *

SEC. 1212. ADDITIONAL SUPPORT FOR COUNTER-DRUG ACTIVITIES

At the request of the head of a Federal agency with counter-drug responsibilities, the Secretary of Defense during fiscal year 1990 may provide support for the counter-drug activities of that agency as follows:

(1) Maintenance and repair of equipment that has been made available by the Department of Defense under chapter 18 of title 10, United States Code, in order to preserve the potential future utility of such equipment to the Department of Defense.

(2) Transportation of personnel, supplies, and equipment for purposes of facilitating a counter-drug operation.

(3) Establishment and operation of a base of operations for purposes of facilitating a counter-drug operation.

(4) Loan of National Guard equipment, subject to such minimum standards of care and maintenance and such minimum training and proficiency requirements for persons who are to use such equipment as the Secretary considers appropriate.

(5) Training of personnel.

SEC. 1213. REPORTS

(a) BY THE PRESIDENT.—Not later than April 1, 1990, the President shall submit to Congress a report—

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[20] Sec. 1207 added a new 32 U.S.C. 112.

[21] Sec. 1033(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2640) repealed sec. 1208, which had authorized the transfer of excess Department of Defense personal property for other Federal and State agencies' counter-drug activities. See 10 U.S.C. 2576a.

[22] Sec. 1210 amended sec 374(b)(2)(E) of 10 U.S.C.

[23] Sec. 1211 amended sec. 375 of 10 U.S.C.

(1) describing the progress made on implementation of the plan required by section 1103 of the National Defense Authorization Act, Fiscal Year 1989 (10 U.S.C. 374 note);

(2) containing an analysis of the feasibility of establishing a National Drug Operations Center for the integration, coordination, and control of all drug interdiction operations; and

(3) describing how intelligence activities relating to narcotics trafficking can be integrated, including—

(A) coordinating the collection and analysis of intelligence information;

(B) ensuring the dissemination of relevant intelligence information to officials with responsibility for narcotics policy and to agencies responsible for interdiction, eradication, law enforcement, and other counter-drug activities; and

(C) coordinating and controlling all intelligence activities relating to counter-drug activities.

(b) BY THE SECRETARY OF DEFENSE.—(1) Not later than February 1, 1990, the Secretary of Defense shall submit a report to Congress—

(A) on the specific drug-related research and development projects to be funded, and the planned allocation of funding for such projects, under section 1205;

(B) on the feasibility of detailing officers in the Judge Advocate General's Corps of the military departments to the Department of Justice to assist in the prosecution of drug cases in areas in which there is a lack of sufficient prosecutorial resources;

(C) on the feasibility of increasing the use of the resources and personnel of the Special Operations Command in drug interdiction and counter-drug activities; and

(D) on the desirability and feasibility of assigning active-duty members of the Armed Forces, at the request of the Secretary of the Treasury and with the approval of the Secretary of Defense, to assist the United States Customs Service in the inspection of cargo, vehicles, vessels, and aircraft at points of entry into the United States.

In preparing the report required by this paragraph, the Secretary shall consult with the Director of National Drug Control Policy and other appropriate heads of agencies.

(2) Not later than April 1, 1990, the Secretary of Defense shall submit a report to Congress on—

(A) the feasibility of establishing aerial and maritime navigational corridors by which civilian aircraft and vessels may travel through drug interdiction areas, as defined in section 1206(c);

(B) the feasibility of requiring the submission of navigational plans for all civilian aircraft and vessels that will travel in such areas; and

(C) the funding considered necessary to implement a plan to carry out the matters referred to in subparagraphs (A) and (B).

In preparing the report required by this paragraph, the Secretary shall consult with the Secretary of Transportation and the Director of National Drug Control Policy.

(3) Not later than February 1 of 1990 and 1991, the Secretary of Defense shall submit to Congress a report on the drug interdiction and counter-drug activities of the Department of Defense under chapter 18 of title 10,[24] United States Code, and other applicable provisions of law during the preceding fiscal year. The report shall include—

(A) specific information as to the size, scope, and results of Department of Defense drug interdiction operations;

(B) specific information on the nature and terms of interagency agreements with other agencies relating to drug interdiction; and

(C) any recommendations for additional legislation that the Secretary determines would assist in furthering the ability of the Department to perform its mission under that chapter or to assist other agencies.

SEC. 1214. SENSE OF CONGRESS ON NATIONAL NARCOTICS BORDER INTERDICTION SYSTEM

(a) FINDINGS.—Congress finds the following:

(1) The Anti-Drug Abuse Act of 1988 (Public Law 100–690) terminated the National Narcotics Border Interdiction System (NNBIS).

(2) The National Narcotics Border Interdiction System provided valuable information and support to State and local law enforcement agencies involved in drug interdiction activities.

(b) SENSE OF CONGRESS.—In light of the findings specified in subsection (a), it is the sense of Congress that the cooperation that existed between State and local law enforcement officials and the Federal agencies participating in the National Narcotics Border Interdiction System should, to the extent possible, be continued and enhanced by the President.

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TITLE XVI—GENERAL PROVISIONS

PART A—FINANCIAL AND BUDGET MATTERS

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SEC. 1606. THREE-MONTH[25] DELAY IN ANY CHANGE IN POLICY RESPECTING REIMBURSEMENT OF DEPARTMENT OF DEFENSE FUNDS FOR SALARIES OF MEMBERS OF THE ARMED FORCES ASSIGNED TO DUTY IN CONNECTION WITH FOREIGN MILITARY SALES PROGRAMS

(a) THREE-MONTH[25] DELAY.—Charges for administrative services calculated under section 21(e) of the Arms Export Control Act (22 U.S.C. 2761(e))[26] in connection with the sale of defense articles or defense services may not exclude recovery of administrative expenses incurred by the Department of Defense before January 1, 1990,[25] that are attributable to salaries of members of the Armed

[24] Sec. 1484(h)(8) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1718), inserted "of title 10" here.

[25] Sec. 9104(d) of the Department of Defense Appropriations Act, 1990 (Public Law 101–165; 103 Stat. 1152), amended this section by 1) striking out "one-year" and inserting in lieu thereof "three-month"; 2) striking out "October 1, 1990" and inserting in lieu thereof "January 1, 1990"; and 3) striking out "fiscal year 1990" and inserting in lieu thereof "the first quarter of fiscal year 1990".

[26] For text, see *Legislation on Foreign Relations Through 2004*, vol. I–A.

Forces if the recovery of such administrative expenses would have been allowed under the law in effect on September 30, 1989. Reimbursement of Department of Defense military personnel appropriation accounts for the value of services provided during the first quarter of fiscal year 1990[25] in connection with the sale of defense articles or defense services may not be denied or limited except to the extent permitted under the law in effect on September 30, 1989.

(b) STATUTORY CONSTRUCTION.—A provision of law enacted after the date of the enactment of this Act may not be construed as modifying or superseding this section unless that provision specifically refers to this section and specifically states that such provision of law modifies or supersedes this section.

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PART C—TECHNICAL CORRECTIONS AND GENERAL TECHNICAL AND CLERICAL AMENDMENTS

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SEC. 1624. REPORT ON RECURRING PROVISIONS OF DEFENSE APPROPRIATIONS ACT

(a) REPORT.—Not later than April 1, 1990, the Secretary of Defense shall submit to the defense committees of Congress a report on recurring provisions of law enacted in the General Provisions title of the Department of Defense Appropriations Act, 1990.

(b) MATTERS TO BE INCLUDED.—With respect to each provision covered by the report, the report shall indicate the following:

(1) When the provision (or a substantially similar provision) was first included in an annual Department of Defense Appropriations Act.

(2) The original policy reason (as nearly as the Secretary can determine) for the inclusion of such a provision.

(3) The Secretary's assessment as to whether that reason still pertains and whether there are additional policy reasons for the continuing inclusion of the provision in annual Acts making appropriations for the Department of Defense.

(4) The Secretary's recommendation as to whether the policy of that provision should continue to be provided by law and, if the recommendation is that the policy should not continue to be provided by law, a detailed statement of the reasons for such recommendation.

(5) In the case of each provision which the Secretary recommends under paragraph (4) should continue to be provided by law, the recommendation of the Secretary as to whether such provision should continue to be included in annual Acts making appropriations for the Department of Defense or whether it would be desirable for Congress to enact such provision as permanent law and, if the recommendation is that the policy should not be enacted as permanent law, a detailed statement of the reasons for such recommendation.

(c) DRAFT OF PROPOSED LEGISLATION.—The report shall include a draft of proposed legislation for the codification into title 10, United States Code, or other appropriate statutes of those provisions covered by the report which the Secretary recommends

(under subsection (b)(5)) would be desirable for Congress to enact as permanent law.

(d) UPDATE OF EARLIER REPORT.—The report shall be an update of the report submitted by the General Counsel of the Department of Defense pursuant to section 1267 of the Department of Defense Authorization Act, 1984 (Public Law 98–94; 97 Stat. 705).

(e) DEFINITIONS.—For purposes of this section:

(1) The term "defense committees of Congress" means the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives.[27]

(2) The term "recurring provision" means a provision of an appropriations Act which (1) is not permanent law, and (2) has been enacted in substantially the same form in previous Acts making appropriations for the same purpose.

PART D—MISCELLANEOUS

SEC. 1631. STUDY OF PROTECTION OF UNITED STATES CIVIL AVIATION FROM TERRORIST ACTIVITIES OVERSEAS

(a) STUDY.—The Secretary of Defense shall conduct a study on the feasibility and desirability of the United States, at the request of a foreign government, deploying military personnel or providing military equipment in areas under the jurisdiction of that government to assist that government in the protection of United States civil aviation interests from terrorist activity. The study should also undertake to determine what programs of the Department of Defense (1) have application to enhancing civil aviation security, and (2) could be quickly adopted by the Federal Aviation Administration for that purpose.

(b) RESEARCH AND DEVELOPMENT MATTERS TO BE STUDIED.—The study shall include a review of United States Government programs concerning research and development in areas relating to explosives detection, terrorist identification, and anti-terrorist operations.

(c) INTERAGENCY COORDINATION.—The study shall be conducted in consultation with the Secretary of State and the Administrator of the Federal Aviation Administration.

(d) SUBMISSION OF REPORT.—The Secretary shall submit to Congress a report on the study (including the Secretary's findings, conclusions, and recommendations) within six months after the date of enactment of this Act.

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SEC. 1638. CONGRESSIONAL FINDINGS AND SENSE OF CONGRESS CONCERNING KIDNAPPING AND MURDER OF LIEUTENANT COLONEL HIGGINS

(a) FINDINGS.—Congress makes the following findings:

(1) The radical, Lebanese-based terrorist organization which calls itself the "Organization of the Oppressed of the Earth" announced on July 31, 1989, that it had executed Lieutenant

[27] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. The Committee on National Security subsequently returned to the name "Committee on Armed Services"; see sec. 1067 of Public Law 106–65 (113 Stat. 774).

Colonel William R. Higgins, a United States Marine assigned for service with the United Nations in the U.N. Truce Supervision Organization (UNTSO), who was kidnapped in southern Lebanon on February 17, 1988.

(2) That organization claimed to have executed Lieutenant Colonel Higgins in response to the capture on July 28, 1989, by Israeli commandos of a radical Muslim Shiite leader, Sheik Abdul Karim Obeid, believed to be associated with that organization.

(3) That organization released to certain news agencies a videotape showing Lieutenant Colonel Higgins killed by hanging, though many forensic experts believe the videotape indicates that the person shown did not die from hanging.

(4) The kidnapping of Lieutenant Colonel Higgins, who was engaged only in carrying out the legitimate United Nations peacekeeping activities to which he had been assigned, was wholly unjustified.

(5) It is absolutely clear that the kidnapping and the murder of Lieutenant Colonel Higgins were outrageous acts of terrorism that deserve the condemnation of all civilized people.

(6) There is strong evidence that the Government of Iran has supported the organization responsible for Lieutenant Colonel Higgins' kidnapping and murder, as well as other terrorist and extremist forces inside Lebanon and throughout the Middle East.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) Congress is outraged by the kidnapping and murder of Lieutenant Colonel Higgins and condemns those actions as barbaric, cowardly, and utterly incompatible with the standards of conduct upheld by civilized people;

(2) the President should use all available resources of the United States Government, including diplomatic and intelligence channels, to determine the identity of those persons responsible for the kidnapping and murder and the details regarding those terrorist acts;

(3) the President should determine whether it would be possible to identify and bring to justice, or to retaliate against, those persons responsible for the kidnapping and murder in a manner consistent with United States and international legal requirements that would reduce the risk to Americans from terrorism;

(4) the President should take strong and decisive action, possibly including the use of military force, to prevent or respond to acts of international terrorism. Such actions should be taken in concert with other nations where practicable, but the President should be prepared to act unilaterally, if necessary;

(5) the United States should make clear to the new leadership in Iran (A) that the United States will not tolerate a continuation of past policies of support of groups which undertake terrorist actions against American citizens or direct assaults on American vital interests in the Middle East or elsewhere, and (B) that if such support should continue, the United States will hold the authorities in Iran accountable for that support and act accordingly;

(6) the Secretary General of the United Nations should take all necessary steps to help ensure that the body of Lieutenant Colonel Higgins is returned to his country and family and that those responsible for his kidnapping and murder are immediately brought to justice;

(7) the President should engage in urgent and continuing diplomatic contacts with all other governments concerning their policies and actions which might have relevance to the interests of the United States Government or increase the vulnerability of the United States citizens to attacks by terrorists; and

(8) the President should continue to consult with other nations to ensure international cooperation and coordination to end terrorist attacks.

SEC. 1639. REPORTS ON CONTROLS ON TRANSFER OF MISSILE TECHNOLOGY AND CERTAIN WEAPONS TO OTHER NATIONS

(a) * * *

(b) REPORT ON MANPOWER REQUIRED TO IMPLEMENT EXPORT CONTROLS ON CERTAIN WEAPONS TRANSFERS.—(1) Not later than February 1, 1990, the Secretary of Defense shall submit to Congress a report relating to Department of Defense manpower required to implement export controls on certain weapons transfers. In the report, the Secretary shall—

(A) identify the role of the Department of Defense in implementing export controls on nuclear, chemical, and biological weapons;

(B) describe the number and skills of personnel currently available in the Department of Defense to perform such role; and

(C) assess the adequacy of the level of personnel resources described in subparagraph (B) for the effective performance of such role.

(2) The report required by paragraph (1) shall identify the total number of current Department of Defense full-time employees or military personnel, and the grades of such personnel and the special knowledge, experience, and expertise of such personnel, required to carry out each of the following activities of the Department in implementing export controls on nuclear, chemical, and biological weapons:

(A) Review of private-sector export license applications and government-to-government cooperative activities.

(B) Intelligence analysis and activities.

(C) Policy coordination.

(D) International liaison activity.

(E) Technology security operations.

(F) Technical review.

(3) The report shall include the Secretary's assessment of the adequacy of staffing in each of the categories specified in subparagraphs (A) through (F) of paragraph (2) and shall make recommendations concerning measures, including legislation if necessary, to eliminate any identified staffing deficiencies and to improve interagency coordination with respect to implementing export controls on nuclear, chemical, and biological weapons.

(c) REPORT ON MISSILE TECHNOLOGY CONTROL REGIME ENFORCEMENT.—(1) The Secretary of Defense shall include in the report under subsection (b) information concerning the Missile Technology Control Regime (MTCR). In the report, the Secretary shall review the existing regulations covering the issues addressed by the MTCR and shall assess whether those regulations—

(A) appropriately cover each item listed in the MTCR annex; and

(B) sufficiently stress consideration of ultimate end use of an item as a factor in issuance of export licenses with respect to that item.

(2) In the report, the Secretary shall also assess whether, in the case of a request for an export license involving a country that is considered to be a suspect country for purposes of the regime, or involving a commodity that is considered to be a suspect commodity for purposes of the regime, sufficient information on that request is brought to the attention of the Department of Defense before such a license is issued and, if not, what measures could be taken to improve Department of Defense oversight of the issuance of export licenses in such cases.

(3) In the report, the Secretary may also address whatever other initiatives for the enforcement of the regime the Secretary considers would help strengthen the regime.

SEC. 1640. REVIEWS AND REPORTS ON DECONTROL OF CERTAIN PERSONAL COMPUTERS

(a) REVIEWS.—The Secretary of Defense and the Secretary of Commerce shall each conduct an independent review on the foreign availability of the personal computers known as AT-compatible microcomputers. Each Secretary, in conducting his review, shall, at a minimum, determine the availability of such microcomputers from sources other than member nations of the Coordinating Committee for Multilateral Export Controls or other nations that control the export of such computers. The Secretary of Defense, in conducting his review, also shall assess the military significance of such microcomputers for the Soviet Union and its Warsaw Pact allies.

(b) REPORTS.—The Secretary of Defense and the Secretary of Commerce shall each submit to the Committee on Banking, Housing, and Urban Affairs of the Senate, the Committee on Foreign Affairs of the House of Representatives, and the Committees on Armed Services of the Senate and House of Representatives[28] a report containing the results of the respective reviews required by subsection (a).

(c) DEADLINE FOR REPORTS.—The reports required by subsection (b) shall be submitted not later than January 1, 1990.

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[28] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. Sec. 1(a)(5) of that Act provided that references to the Committee on Foreign Affairs shall be treated as referring to the Committee on International Relations. The Committee on National Security subsequently returned to the name "Committee on Armed Services"; see sec. 1067 of Public Law 106–65 (113 Stat. 774).

w. Department of Defense Appropriations Act, 1991

Partial text of Public Law 101–511 [H.R. 5803], 104 Stat. 1856, approved November 5, 1990; amended by Public Law 102–172 [Department of Defense Appropriations Act, 1992; H.R. 2521], 105 Stat. 1150, approved November 26, 1991; and by Public Law 102–190 [National Defense Authorization for Fiscal Years 1992 and 1993; H.R. 2100], 105 Stat. 1290, approved December 5, 1991

AN ACT Making appropriations for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1991, for military functions administered by the Department of Defense, and for other purposes, namely:

* * * * * * *

TITLE VIII

GENERAL PROVISIONS

* * * * * * *

(INCLUDING TRANSFER OF FUNDS)

SEC. 8104.[1] **SECTION 1.** This section establishes the National Commission on Defense and National Security.

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) Recent revolutionary world events require a fundamental reassessment of the defense and national security policies of the United States.

(2) Emerging democracies around the world will require political, technical, and economic assistance, as well as military assistance, from the developed free nations in order to thrive and to become productive members of the world community.

(3) Real and potential military threats to the United States and its allies will continue to exist for the foreseeable future from not just the Soviet Union but also from terrorism and from Third World nations.

(4) Proliferation of both sophisticated conventional weapons and of nuclear weapons could produce a world more dangerous than we have faced in the past.

(5) Ethnic rivalries as well as economic inequalities may produce instabilities that could spark serious conflict.

[1] 50 U.S.C. 401 note.

(6) In order to formulate coherent national policies to meet these challenges of a new world environment, it is essential for the United States to achieve a bipartisan consensus such as that which emerged following World War II.

(7) Such a consensus can be fostered by the development of policy recommendations from a highly respected group of individuals who do not bear a partisan label and who possess critical expertise and experience.

SEC. 3. ESTABLISHMENT.

There is established a commission to be known as National Commission on Defense and National Security (hereinafter in this Act referred to as the "Commission"). The Commission is established until 30 days following submission of the final report required by section 6 of this section.[2]

SEC. 4. DUTIES OF COMMISSION.

(a) IN GENERAL.—The Commission shall analyze and make recommendations to the President and Congress concerning the national security and national defense policies of the United States.

(b) MATTERS TO BE ANALYZED.—Matters to be analyzed by the Commission shall include the following:

(1) The world-wide interests, goals, and objectives of the United States that are vital to the national security of the United States.

(2) The political, economic, and military developments around the world and the implications of those developments for United States national security interests, including—

(A) the developments in Eastern Europe and the Soviet Union;

(B) the question of German unification;

(C) the future of NATO and European economic integration;

(D) the future of the Pacific Basin; and

(E) potential instability resulting from regional conflicts or economic problems in the developing world.

(3) The foreign policy, world-wide commitments, and national defense capabilities of the United States necessary to deter aggression and implement the national security strategy of the United States, including the contribution that can be made by bilateral and multilateral political and economic associations in promoting interests that the United States shares with other members of the world community.

(4) The proposed short-term uses of the political, economic, military, and other elements of national power for the United States to protect or promote the interests and to achieve the goals and objectives referred to in paragraph (1).

(5) Long-term options that should be considered further for a number of potential courses of world events over the remainder of the century and into the next century.

SEC. 5. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 10 members, as follows:

[2] The second sentence was added by sec. 8078(1) of Public Law 102–172 (105 Stat. 1190).

(1) Three appointed by the President.

(2) Three appointed by the Speaker of the House of Representatives.

(3) One appointed by the minority leader of the House of Representatives.

(4) Two appointed by the majority leader of the Senate.

(5) One appointed by the minority leader of the Senate.

(b) QUALIFICATIONS.—Persons appointed to the Commission shall be persons who are not officers or employees of the Federal Government (including Members of Congress) and who are specially qualified to serve on the Commission by virtue of their education, training, or experience.

(c) TERMS.—Members shall be appointed for the life of the Commission. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(d) BASIC PAY.—Members of the Commission shall serve without pay.

(e) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(f) CHAIRMAN AND VICE CHAIRMAN.—The Chairman of the Commission shall be designated by the President from among the members appointed by the President. The Vice Chairman of the Commission shall be designated by the Speaker of the House of Representatives from among the members appointed by the Speaker.

(g) MEETINGS.—The Commission shall meet at the call of the Chairman or a majority of its members.

(h) DEADLINE FOR APPOINTMENTS.—Members of the Commission shall be appointed not later than the end of the 30-day period beginning on the date of the enactment of this Act.

SEC. 6. REPORTS.

(a) INITIAL REPORT.—The Commission shall transmit to the President and to Congress an initial report not later than six months after the date on which the Commission is first constituted with a quorum.

(b)[3] FINAL REPORT.—The Commission shall transmit to the President and to Congress a final report one year following[4] submission of the initial report under subsection (a).

(c) CONTENTS OF REPORTS.—The report under subsection (b)[5] shall contain a detailed statement of the findings and conclusions of the Commission concerning the matters to be studied by the Commission under section 4, together with its recommendations for such legislation and administrative actions as it considers appropriate. Such[5] report shall include a comprehensive description and discussion of the matters set forth in section 4.

(d) REPORTS TO BE UNCLASSIFIED.—Each such report shall be submitted in unclassified form.

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[3] Sec. 8078(2)(i)(A) of Public Law 102–172 (105 Stat. 1190) struck out "Subsequent Annual Reports" and inserted in lieu thereof "Final Report".

[4] Sec. 8078(2)(i)(B) of Public Law 102–172 (105 Stat. 1190) struck out "an annual report for each of the first five years following the" and inserted in lieu thereof "a final report one year following". Sec. 8078(2)(C) struck out a second sentence in subsec. (b), which had read: "Each such report shall update the previous report under this section."

[5] Sec. 8078(2)(ii)(A) of Public Law 102–172 (105 Stat. 1190) struck out "Each report under this section" and inserted in lieu thereof "The report under subsection (b)" in the first sentence. Sec. 8078(2)(ii)(B) struck out "Each such" and inserted in lieu thereof "such" in the second sentence.

(e) ADDITIONAL AND MINORITY VIEWS.—Each report may include such additional and minority views as individual members of the Commission may request be included.

SEC. 7. DIRECTOR AND STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.

(a) DIRECTOR.—The Commission shall, without regard to section 5311(b) of title 5, United States Code, have a Director who shall be appointed by the Chairman and who shall be paid at a rate not to exceed the maximum rate of basic pay payable for GS–18 of the General Schedule.

(b) STAFF.—The Chairman may appoint and fix the pay of such additional personnel as the Chairman considers appropriate.

(c) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS–18 of the General Schedule.

(d) EXPERTS AND CONSULTANTS.—Subject to such rules as may be prescribed by the Commission, the Chairman may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS–18 of the General Schedule.

(e) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this Act.

SEC. 8. POWERS OF COMMISSION.

(a) HEARINGS AND SESSIONS.—The Commission may, for the purpose of carrying out this Act, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(b) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if so authorized by the Commission, take any action which the Commission is authorized to take by this section.

(c)[6] OBTAINING OFFICIAL DATA.—The Chairman or a designee on behalf of the Commission may request information necessary to enable the Commission to carry out this Act directly from any department or agency of the United States.

(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

[6] Sec. 8078(3) of Public Law 102–172 (105 Stat. 1190) amended and restated subsec. (c).

(f) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

SEC. 9. INITIAL FUNDING OF COMMISSION.

If funds are not otherwise available for the necessary expenses of the Commission for fiscal year 1991, the Secretary of Defense shall make available to the Commission, from funds available to the Secretary for the fiscal year concerned, such funds as the Commission requires. When funds are specifically appropriated for the expenses of the Commission, the Commission shall reimburse the Secretary from such funds for any funds provided to it under the preceding sentence.

SEC. 8105.[7] CONTRIBUTIONS BY JAPAN TO THE SUPPORT OF UNITED STATES FORCES IN JAPAN.—

(a) PERMANENT CEILING ON UNITED STATES ARMED FORCES IN JAPAN.—After September 30, 1990, funds appropriated pursuant to an appropriation contained in this Act or any subsequent Act may not be used to support an end strength level of all personnel of the Armed Forces of the United States stationed in Japan at any level in excess of 50,000.

(b) ANNUAL REDUCTION IN CEILING UNLESS SUPPORT FURNISHED.—Unless the President certifies to Congress before the end of each fiscal year that Japan has agreed to offset for that fiscal year the direct costs incurred by the United States related to the presence of all United States military personnel in Japan, excluding the military personnel title costs, the end strength level for that fiscal year of all personnel of the Armed Forces of the United States stationed in Japan may not exceed the number that is 5,000 less than such end strength level for the preceding fiscal year.

(c) SENSE OF CONGRESS.—It is the sense of Congress that all those countries that share the benefits of international security and stability should share in the responsibility for that stability and security commensurate with their national capabilities. The Congress also recognizes that Japan has made a substantial pledge of financial support to the effort to support the United Nations Security Council resolutions on Iraq. The Congress also recognizes that Japan has a greater economic capability to contribute to international security and stability than any other member of the international community and wishes to encourage Japan to contribute commensurate with that capability.

(d) EXCEPTIONS.—(1) This section shall not apply in the event of a declaration of war or an armed attack on Japan.

(2) The President may waive the limitation in this section for any fiscal year if he declares that it is in the national interest to do so and immediately[8] informs Congress of the waiver and the reasons for the waiver.[9]

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[7] 10 U.S.C. 113 note. See also sec. 1455 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1695).

[8] Sec. 1063(b) of Public Law 102–190 (105 Stat. 1476) corrected the spelling of "immediately".

[9] In a memorandum of May 14, 1991, for the Secretary of Defense, the President stated: "Consistent with section 8105(d)(2) of the Department of Defense Appropriation Act, 1991 (Public Law 101–511; 104 Stat. 1856), I hereby waive the limitation in section 8105(b) which states that

Continued

(e) EFFECTIVE DATE.—This section shall take effect on the date of enactment of this Act.

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This Act may be cited as the "Department of Defense Appropriations Act, 1991".

the end strength level for each fiscal year of all personnel of the Armed Forces of the United States stationed in Japan may not exceed the number that is 5,000 less than such end strength level for the preceding fiscal year, and declare that it is in the national interest to do so." (56 F.R. 23991; May 28, 1991).

x. National Defense Authorization Act, Fiscal Year 1989

Partial text of Public Law 100–456 [H.R. 4481], 102 Stat. 1918, approved September 29, 1988; as amended by Public Law 100–463 [Department of Defense Appropriations Act, Fiscal Year 1989; H.R. 4781], 102 Stat. 2270, approved October 1, 1988; Public Law 100–526 [Defense Authorization Amendments and Base Closure and Realignment Act, S. 2749], 102 Stat. 2623, approved October 24, 1988; Public Law 101–189 [National Defense Authorization Act for Fiscal Years 1990 and 1991, H.R. 2461], 103 Stat. 1352, approved November 29, 1989; Public Law 102–484 [National Defense Authorization Act for Fiscal Year 1993; H.R. 5006], 106 Stat. 2315, approved October 23, 1992; Public Law 103–199 [FRIENDSHIP Act; H.R. 3000], 107 Stat. 2317, approved December 17, 1993; Public Law 105–85 [National Defense Authorization Act for Fiscal Year 1998; H.R. 1119], 111 Stat. 1629, approved November 18, 1997; Public Law 108–136 [National Defense Authorization Act for Fiscal Year 2004; H.R. 1588], 117 Stat. 1392, approved November 24, 2003

AN ACT To authorize appropriations for fiscal year 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE

This Act may be cited as the "National Defense Authorization Act, Fiscal Year 1989".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS

This Act is organized into two divisions as follows:

(1) Division A—Department of Defense and other National Defense Authorizations.

(2) Division B—Military Construction Authorizations.

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SEC. 4. STATUTORY CONSTRUCTION

(a) ORDER OF ENACTMENT WITH APPROPRIATIONS ACT.—In applying any rule of statutory construction, the provisions of this Act shall be deemed to have been enacted before the provisions of the Department of Defense Appropriations Act, 1989, (regardless of the actual dates of enactment concerned).[1]

(b) TERMINATION OF REFERENCED AUTHORIZATION PROVISION.—If this Act is enacted after the Department of Defense Appropriations Act, 1989—

(1) section 10001 of that Act shall cease to be effective upon the enactment of this Act; and

(2) subject to subsection (a), this Act shall be deemed for all purposes to have been enacted on the date of the enactment of such Act.

[1] The Department of Defense Appropriations Act, 1989, was enacted October 1, 1989.

DIVISION A—DEPARTMENT OF DEFENSE AND OTHER NATIONAL DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

PART A—FUNDING AUTHORIZATIONS

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SEC. 105. CHEMICAL DEMILITARIZATION PROGRAM

Funds are hereby authorized to be appropriated for fiscal year 1989 for the chemical demilitarization program under section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521) in the amount of $179,500,000, of which—

(1) $44,300,000 is for procurement;

(2) $17,900,000 is for research, development, test, and evaluation; and

(3) $117,300,000 is for operation and maintenance.

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TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

PART A—AUTHORIZATIONS AND FUNDING FOR SPECIFIC PROGRAMS

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SEC. 208. CHEMICAL WEAPONS CONVENTION COMPLIANCE MONITORING PROGRAM

Of the amounts appropriated pursuant to section 201, $6,800,000 shall be available only to conduct a program to develop and demonstrate compliance monitoring capabilities in support of the Convention on the Prohibition of Chemical Weapons proposed by the United States in the Conference on Disarmament.

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PART E—OTHER PROGRAMS

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SEC. 243. REPORT ON SPACE CONTROL CAPABILITIES

(a) REPORT.—Not later than the date on which the President submits the budget for fiscal year 1990 to Congress under section 1105 of title 31, United States Code, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives[2] a comprehensive report on space control capabilities of the Armed Forces.

(b) CONTENT OF REPORT.—The report shall include the following matters:

(1) A description of requirements for space control capabilities related to deterrence and warfighting objectives, including space surveillance and anti-satellite capabilities, that have

[2] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. The Committee on National Security subsequently returned to the name "Committee on Armed Services"; see sec. 1067 of Public Law 106–65 (113 Stat. 774).

been validated by the Chairman of the Joint Chiefs of Staff and transmitted to the commander of the United States Space Command.

(2) A net assessment of the space control capabilities of the United States and the Soviet Union.

(3) An assessment of current deficiencies in United States space control capabilities and recommendations for overcoming those deficiencies.

(4) A 5-year plan for improving ground- and space-based surveillance systems and their associated command, control, and communications systems and the cost and schedule for implementing the plan.

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TITLE III—OPERATION AND MAINTENANCE

PART A—AUTHORIZATIONS OF APPROPRIATIONS

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SEC. 303. HUMANITARIAN ASSISTANCE

(a) PURPOSE.—The amount authorized in section 301[3] for humanitarian assistance shall be used for the purpose of providing transportation for humanitarian relief for persons displaced or who are refugees because of the invasion of Afghanistan by the Soviet Union. Of the amount authorized in such section for such purpose, not more than $3,000,000 may be used for distribution of humanitarian relief supplies to the non-Communist resistance organization at or near the border between Thailand and Cambodia.

(b) AUTHORITY TO TRANSFER FUNDS.—The Secretary of Defense may transfer to the Secretary of State not more than $3,000,000 of the funds appropriated pursuant to the authorization in section 301 for humanitarian assistance to provide for (1) paying for administrative costs of providing the transportation described in subsection (a), and (2) the purchase or other acquisition of transportation assets for the distribution of relief supplies in the country of destination.

(c) TRANSPORTATION UNDER DIRECTION OF THE SECRETARY OF STATE.—Transportation provided with funds appropriated pursuant to the authorization in section 301 for humanitarian assistance shall be under the direction of the Secretary of State.

(d) MEANS OF TRANSPORTATION TO BE USED.—Transportation for humanitarian relief provided with funds appropriated pursuant to the authorization in section 301 for humanitarian assistance shall be by the most economical commercial or military means available, unless the Secretary of State determines that it is in the national interest of the United States to use means other than the most economical means available. Such means may include the use of aircraft and personnel of the reserve components of the Armed Forces.

[3] Sec. 301 of this Act authorized $13,000,000 for humanitarian assistance. Sec. 301 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1352), authorized $13,000,000 for humanitarian assistance, and sec. 304 reiterated this section and required the Secretary of Defense to annually report on the provision of humanitarian assistance under this law.

(e) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to the authorization in section 301 for humanitarian assistance shall remain available until expended, to the extent provided in appropriation Acts.

(f)[4] REPORTS.—* * * [Repealed—1989]

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PART B—LIMITATIONS

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SEC. 313.[5] PROHIBITION ON PURCHASE OF TOSHIBA PRODUCTS FOR RESALE IN MILITARY EXCHANGE STORES

(a) PROHIBITION.—During the three-year period beginning on the date of the enactment of this Act, no product manufactured or assembled by Toshiba America, Incorporated, or Toshiba Corporation (or any of its affiliates or subsidiaries) may be purchased by the Department of Defense for the purpose of resale of such product in a military exchange store or in any other morale, welfare, recreation, or resale activity operated by the Department of Defense (either directly or by concessionaire).

(b) EXCEPTION.—The prohibition in subsection (a) shall not apply to microwave ovens manufactured or assembled in the United States.

SEC. 314. LIMITATION ON FUNDING FOR UNITED STATES SOUTHERN COMMAND AIRLIFT

Funds appropriated for operation and maintenance for the Air Force for fiscal year 1989 may not be obligated or expended in connection with any contract for aircraft with short takeoff and landing capability until—

(1) the Secretary of Defense approves a requirements document and an acquisition plan, including costs and schedule information, for an aircraft with short takeoff and landing capability for the United States Southern Command; and

(2) the Secretary of Defense submits both the document and the plan to the Committees on Armed Services of the Senate and the House of Representatives.[6]

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TITLE VIII—ACQUISITION POLICY AND MANAGEMENT

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[4] Sec. 304(f)(5) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1410) repealed subsec. (f), which had required the Secretary of Defense to submit to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives several reports on the funds obligated for humanitarian relief under various humanitarian relief laws. Similar reports are now required by sec. 303 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1525).

[5] 50 U.S.C. app. 2410a note.

[6] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. The Committee on National Security subsequently returned to the name "Committee on Armed Services"; see sec. 1067 of Public Law 106–65 (113 Stat. 774).

PART B—DEFENSE INDUSTRIAL BASE

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SEC. 825. DEPARTMENT OF DEFENSE OFFSET POLICY

(a)[7] FINDINGS.—Congress makes the following findings:

(1) Many contracts entered into by United States firms for the supply of weapon systems or defense-related items to foreign countries and foreign firms are subject to contractual arrangements under which United States firms must agree—

(A) to have a specified percentage of work under, or monetary amount of, the contract performed by one or more foreign firms;

(B) to purchase a specified amount or quantity of unrelated goods or services from domestic sources of such foreign countries; or

(C) to invest a specified amount in domestic businesses of such foreign countries.

Such contractual arrangements, known as "offsets", are a component of international trade and could have an impact on United States defense industry opportunities in domestic and foreign markets.

(2) Some United States contractors and subcontractors may be adversely affected by such contractual arrangements.

(3) Many contracts which provide for or are subject to offset arrangements require, in connection with such arrangements, the transfer of United States technology to foreign firms.

(4) The use of such transferred technology by foreign firms in conjunction with foreign trade practices permitted under the trade policies of the countries of such firms can give foreign firms a competitive advantage against United States firms in world markets for products using such technology.

(5) A purchase of defense equipment pursuant to an offset arrangement may increase the cost of the defense equipment to the purchasing country and may reduce the amount of defense equipment that a country may purchase.

(6) The exporting of defense equipment produced in the United States is important to maintain the defense industrial base of the United States, lower the unit cost of such equipment to the Department of Defense, and encourage the standardized utilization of United States equipment by the allies of the United States.

(b) AMENDMENT TO TITLE 10.[8] * * *

(c)[9] NEGOTIATIONS.—(1) The President shall enter into negotiations with foreign countries that have a policy of requiring an offset arrangement in connection with the purchase of defense equipment or supplies from the United States. The negotiations should be conducted with a view to achieving an agreement with the countries concerned that would limit the adverse effects that such arrangements have on the defense industrial base of each such country.

[7] 10 U.S.C. 2505 note.

[8] Sec. 825(b) added a new sec. 2505 to title 10, U.S.C., concerning U.S. defense technology transfer and notifications.

[9] 10 U.S.C. 2505 note.

Every effort shall be made to achieve such agreements within two years after September 29, 1988;[10]

(2)[10] In the negotiation or renegotiation of any memorandum of understanding between the United States and one or more foreign countries relating to the reciprocal procurement of defense equipment and supplies or research and development, the President shall make every effort to achieve an agreement with the country or countries concerned that would limit the adverse effects that offset arrangements have on the defense industrial base of the United States.

(d) REPORTS.—(1) Not later than November 15, 1988, the President shall submit to Congress a comprehensive report on contractual offset arrangements required of United States firms for the supply of weapon systems or defense-related items to foreign countries or foreign firms. Such report shall include, at a minimum, the following:

(A) An analysis of the amount and type of contractual offsets required of United States firms by the governments of foreign countries or by foreign firms.

(B) An assessment of the benefits for and costs to United States manufacturers of defense products at all tiers that result from requirements of foreign governments for contractual offset arrangements in the case of products procured from United States firms.

(C) An assessment of the benefits for and the costs to United States manufacturers of defense products at all tiers that would result from restriction of the ability of foreign governments or foreign firms to require contractual offsets in the case of defense products procured from United States firms.

(D) An assessment of the benefits and costs of a United States policy that requires reciprocal offsets in the procurement of defense products from those countries whose governments have a policy of requiring contractual offsets in the case of defense products procured from United States firms.

(E) An assessment of the impact that elimination of contractual offset requirements in international sales of defense products would have on the national security of the United States.

(F) Recommendations for a national policy with respect to contractual offset arrangements.

(G) A preliminary discussion of the actions referred to in paragraph (2).

(2) Not later than March 15, 1990, the President shall transmit to Congress a report containing a discussion of appropriate actions to be taken by the United States with respect to purchases from United States firms by a foreign country (or a firm of that country) when that country or firm requires an offset arrangement in connection with the purchase of defense equipment or supplies in favor of such country. The report shall include a discussion of the following possible actions:

[10] Sec. 816 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1501) amended sec. 825(c) by transferring the text of para. (2) to the end of para. (1); by striking "the date of the enactment of this Act." at the end of that sentence and inserting in lieu thereof "September 29, 1988"; and by inserting a new para. (2).

(A) A requirement for an offset in favor of the United States or United States firms in any case in which the Department of Defense or any other department or agency of the United States purchases goods from such foreign country or a firm of such country.

(B) A demand for offset credits from such foreign country to be used, to the extent practicable, to meet offset obligations of United States firms to such foreign country or to a firm of such country.

(C) A reduction in assistance furnished such foreign country by the United States.

(D) A requirement for alternative equivalent advantages in the case of any such foreign country or a firm of such country if the United States does not purchase a sufficient volume of goods from such country or firm for a requirement described in subparagraph (A) to be effective.

(3) The President shall report to Congress at least once each year, for a period of 4 years, on the progress of the negotiations referred to in subsection (c). The first such report shall be submitted not later than one year after the date of the enactment of this Act.

(4) In this subsection, the terms "United States firm" and "foreign firm" have the same meanings as are provided in section 2505(d) of title 10, United States Code, as added by subsection (b).

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TITLE IX—MATTERS RELATING TO ARMS CONTROL [11]

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TITLE X—MATTERS RELATING TO NATO COUNTRIES AND OTHER ALLIES

SEC. 1001. INCREASE IN ANNUAL DOLLAR LIMITATION ON ACQUISITION AND CROSS-SERVICING AGREEMENTS WITH ALLIED COUNTRIES * * *

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SEC. 1002.[12] AUTHORITY TO WAIVE SURCHARGES ON CERTAIN SALES TO NORTH ATLANTIC TREATY ORGANIZATION * * *

SEC. 1003.[13] AUTHORITY OF MILITARY DEPARTMENTS TO LOAN AND BORROW FROM CERTAIN ALLIES MATERIALS, SUPPLIES, AND EQUIPMENT FOR RESEARCH AND DEVELOPMENT PURPOSES * * *

SEC. 1004.[14] SENSE OF CONGRESS ON NEED FOR MODERNIZATION OF THEATER NUCLEAR CAPABILITIES OF NATO

(a) FINDINGS.—Congress makes the following findings:

(1) The security of the North Atlantic Treaty Organization (NATO) alliance will continue for the foreseeable future to rely on a modern and credible nuclear deterrent.

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[11] For text, see *Legislation on Foreign Relations Through 2004*, vol. II, sec F.

[12] Sec. 1002 amended sec. 21(e) of the Arms Export Control Act (22 U.S.C. 2761(e)). For text, see *Legislation on Foreign Relations Through 2004*, vol. I–A.

[13] Sec. 1003 amended chapter 6 of the Arms Export Control Act (22 U.S.C. 2796c). For text, see *Legislation on Foreign Relations Through 2004*, vol. I–A.

[14] 22 U.S.C. 1928 note.

(2) NATO should make every effort to achieve the goal of raising the threshold for the use of nuclear weapons in the event of a conflict in Europe.

(3) While recognizing that there is a critical need for improvements in conventional forces, Congress also recognizes that the United States will have to devote defense resources in the future to the continuing modernization of the theater nuclear capabilities of NATO.

(4) The modernization of the theater nuclear capabilities of NATO is a continuing process and stems from the 1983 Montebello decision by NATO to reduce the stockpile of nuclear weapons in Europe while taking steps to ensure that the remaining nuclear weapons of the alliance are responsive, survivable, and effective.

(5) Programs to modernize theater nuclear forces, which had a high priority for NATO before the ratification of the Intermediate-range Nuclear Forces (INF) Treaty, are at least as important following the ratification of that treaty in May 1988.

(6) The NATO Nuclear Planning Group recently reaffirmed its endorsement of development by the United States of a new missile for delivery of theater nuclear weapons as a follow-on to the current Lance missile, with a view toward an eventual decision on deployment of such a follow-on missile.

(b) SENSE OF CONGRESS.—In light of the findings in subsection (a), it is the sense of Congress that—

(1) modernization of the theater nuclear capabilities of the North Atlantic Treaty Organization is essential to the deterrence strategy of the NATO alliance, particularly in light of the requirements of the Intermediate-range Nuclear Forces (INF) Treaty for the destruction of intermediate-range nuclear weapons;

(2) continued modernization by the United States of theater nuclear capabilities should be undertaken in close consultation with other NATO member nations; and

(3) the United States should proceed with ongoing activities to meet the identified requirement of the NATO alliance for development of a new missile for delivery of theater nuclear weapons as a follow-on to the Lance missile.

SEC. 1005. REPORT ON NATO DEFENSE PROGRAM FOR FISCAL YEAR 1990

(a) REPORT.—The Secretary of Defense shall submit to Congress a report setting forth in detail the programs of the Department of Defense in support of the North Atlantic Treaty Organization (referred to as the "NATO Defense Program") for fiscal year 1990. The report shall include—

(1) an identification of each such program by program element; and

(2) a description of each such program and the level of funding requested by the President for each such program in the budget for fiscal year 1990.

(b) SUBMISSION OF REPORT.—The report under subsection (a) shall be submitted in conjunction with the submission to Congress of the President's budget for fiscal year 1990 pursuant to section 1105 of title 31, United States Code.

SEC. 1006.[15] IMPROVEMENT IN DEFENSE RESEARCH AND PROCUREMENT LIAISON WITH ISRAEL

The Secretary of Defense, in consultation with the Under Secretary of Defense for Acquisition, shall designate for duty in Israel an individual or individuals to serve as the primary liaison between the procurement and research and development activities of the United States Armed Forces and those of the State of Israel.

SEC. 1007.[16] MODIFICATION OF REQUIREMENT CONCERNING DESIGNATION OF MAJOR NON-NATO ALLIES * * *

SEC. 1008. CALL FOR CONTINUED DEFENSE BURDENSHARING DISCUSSIONS WITH ALLIES

It is the sense of Congress that the President should continue the discussions (called for by Congress in section 1254(b)(1) of Public Law 100–204) with countries which participate in mutual defense alliances with the United States, especially the member nations of the North Atlantic Treaty Organization and Japan, for the purpose of reaching an agreement for a more equitable distribution of the burden of financial support for the alliances.

SEC. 1009. CONTRIBUTIONS BY JAPAN TO GLOBAL STABILITY

(a) FINDINGS.—The Congress makes the following findings:

(1) As noted by Congress in section 1012(a)(1) of Public Law 100–180 and in section 812(a)(1) of Public Law 99–93,[17] the alliance of the United States and Japan is the foundation for the security of Japan and peace in the Far East and is a major contributing factor to the democratic freedoms and the economic prosperity enjoyed by both the United States and Japan.

(2) In keeping with the declaration made at the 1983 meeting in Williamsburg, Virginia, of the leaders of the leading industrialized democracies that "the security of our countries is indivisible and must be approached on a global basis", the Government of Japan, in actions welcomed by the United States—

(A) continues to fulfill the pledge made by the Prime Minister of Japan in May 1981 to develop the capabilities to defend the territory of Japan and the airspace and sealanes around Japan to a distance of 1,000 nautical miles by 1990,

(B) has increased the amount of assistance provided to other countries during fiscal year 1988 by 6.5 percent over the amount of such assistance provided during fiscal year 1987, and

(C) is, according to recent reports, actively involved in increasing its contributions to the stability of the Republic of the Philippines.

(3) Japan could, because of its recent history and economic status, best fulfill a politically acceptable and significant role in maintaining the security of the leading industrialized democracies by increasing spending for its Official Development Assistance program in the manner described by Congress in section 1012(b) of Public Law 100–180.

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[15] 10 U.S.C. 133 note.

[16] Sec. 1007 amended sec. 1105(f) of the National Defense Authorization Act for Fiscal Year 1987 (22 U.S.C. 2767a). Sec. 1105 was repealed in 1989.

[17] For text, see *Legislation on Foreign Relations Through 2004*, vol. II, sec. D.

(4) The failure of the United States and Japan to agree on the appropriate level of the contribution by Japan to maintaining the security of the leading industrialized democracies could weaken the long-term vitality, effectiveness, and cohesion of the alliance between the United States and Japan.

(b)[18] ANNUAL REPORT.—The Secretary of Defense shall include with the annual report submitted pursuant to section 1003 of Public Law 98–525 (22 U.S.C. 1928 note) a report on the Official Development Assistance program of the Government of Japan. Such report shall be prepared each year in coordination with the Secretary of State and the Administrator of the Agency for International Development and shall include a description of the amount and nature of spending under such program by recipient, including distinguishing between grant aid, loans, and credits.

(c) POLICY ON DISCUSSIONS WITH JAPAN.—It is the sense of Congress that in the discussions with Japan referred to in section 1008 for the purpose of reaching a more equitable distribution of the burden of financial support for the security of the leading industrialized democracies, the objective of such discussions should include the establishment of a schedule for increases in spending under Japan's Official Development Assistance program and its defense programs so that, by 1992, the level of spending on those programs (stated as a percentage of gross national product) will approximate the average of the levels of spending by the member nations of the North Atlantic Treaty Organization on official development assistance and defense programs (stated as a percentage of their respective gross national products).

(d) REPORT.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report on the progress of the discussions described in subsection (c) with respect to Japan.

(e) FURTHER CONGRESSIONAL ACTION.—It is the sense of Congress that if, in the judgment of Congress, the report of the President under subsection (d) does not reflect substantial progress toward a more equitable distribution of the burden of maintaining the security of the leading industrialized democracies, Congress should review the extent of the distribution of the mutual security burden between the United States and Japan and should consider whether additional legislation is appropriate.

TITLE XI—DRUG INTERDICTION AND LAW ENFORCEMENT SUPPORT

SEC. 1101.[19] ANNUAL GUIDELINES TO THE MILITARY DEPARTMENTS * * *

SEC. 1102.[20] LEAD AGENCY FOR DETECTION * * * [Repealed—1989]

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[18] 22 U.S.C. 1928 note.

[19] Sec. 1101 amended sec. 113 of title 10, United States Code, by adding to the end a new subsec. (l).

[20] Sec. 1202 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1563) inserted a new sec. 124 to title 10, U.S.C., titled "Detection and Monitoring of aerial and maritime transit of illegal drugs; Department of Defense to be lead agency", and repealed sec. 1102.

SEC. 1103.[21] **COMMUNICATIONS NETWORK** * * * [Repealed—1989]

SEC. 1104.[22] **ENHANCED DRUG INTERDICTION AND LAW ENFORCEMENT SUPPORT BY THE DEPARTMENT OF DEFENSE** * * *

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SEC. 1107. REPORTS

(a) PROPOSALS.—Not later than December 1, 1988, the President shall submit to Congress a report containing—

(1) legislative proposals to enhance the capability of the Department of Defense to perform the functions provided for in this title and in the amendments made by this title; and

(2) estimates of the amounts necessary to carry out such proposals.

(b) RADAR COVERAGE AND SOUTHERN BORDER.—(1) The President shall submit to the Committees on Armed Services of the Senate and the House of Representatives[23] a report assessing the potential effect on drug interdiction and on the drug abuse problem in the United States of—

(A) carrying out radar coverage along the southern border of the United States; and

(B) pursuing drug smugglers detected by such radar coverage with rotor-wing and fixed-wing aircraft of the Department of Defense and of civilian law enforcement agencies.

(2) The President shall include in such report an assessment of the relative effectiveness—

(A) of carrying out the operations described in clauses (A) and (B) of paragraph (1) on a full-time basis;

(B) of carrying out such operations only during the hours of darkness; and

(C) the feasibility and cost of carrying out such operations under each of the conditions specified in clauses (A) and (B).

(3) The report under paragraph (1) shall be submitted not later than 30 days after the date of the enactment of this Act.

(c) PURSUIT BY AIRCRAFT.—(1) Not later than 15 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives[24] a report containing the following information:

(A) The total number of times suspected drug smugglers flying aircraft into the United States have been pursued by aircraft operated by or with the support of personnel of the Department of Defense under the authority of section 374(c)(2)(B) of title 10, United States Code, as in effect on the day before the date of the enactment of this Act.

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[21] Sec. 1204 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1564) repealed sec. 1103.

[22] Sec. 1104 amended chapter 18 of 10 U.S.C., secs. 371–380.

[23] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. The Committee on National Security subsequently returned to the name "Committee on Armed Services"; see sec. 1067 of Public Law 106–65 (113 Stat. 774).

[24] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. The Committee on National Security subsequently returned to the name "Committee on Armed Services"; see sec. 1067 of Public Law 106–65 (113 Stat. 774).

(B) The number of times civilian law enforcement officials were present at the location and at the time the suspected drug smugglers were forced to land their aircraft in the United States as a result of the pursuit of the aircraft operated by or with the support of Department of Defense personnel.

(C) The number of times such officials were not present at the location and at the time such suspected smugglers were forced to land their aircraft in the United States.

(2) Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to such committees a report containing the following information:

(A) The total number of times suspected drug smugglers described in paragraph (1) have been pursued into the United States by aircraft operated by or with the support of Department of Defense personnel under the authority of section 374(b)(2)(C) of title 10, as amended by section 1104.

(B) The number of times civilian law enforcement officials were present at the location and at the time the suspected drug smugglers were forced to land their aircraft in the United States as a result of the pursuit of the aircraft operated by or with the support of Department of Defense personnel.

(C) The number of times such officials were not present at the location and at the time such suspected smugglers were forced to land their aircraft in the United States as a result of the pursuit of the aircraft operated by or with the support of Department of Defense personnel.

(D) Such other information and such recommendations as the Secretary considers appropriate regarding the use of Department of Defense personnel for purposes authorized in section 374(b) of title 10, United States Code, as amended by section 1104.

TITLE XII—GENERAL PROVISIONS

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PART D—MISCELLANEOUS

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SEC. 1232.[25] **REASSESSMENT OF SOVIET ELECTRONIC ESPIONAGE CAPABILITY FROM MOUNT ALTO EMBASSY SITE** * * * [Repealed—1993]

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TITLE XIII—FOREIGN RELATIONS MATTERS

SEC. 1301. SENSE OF CONGRESS CONCERNING THE PANAMA CANAL AND THE UNITED STATES SOUTHERN COMMAND

(a) FINDINGS.—The Congress finds that—

(1) the security of, and the free flow of shipping through, the Panama Canal are vital interests of the United States; and

(2) the continued ability of the United States Southern Command (which currently has its headquarters in the Republic of Panama) to carry out assigned missions, especially the mission

[25] Repealed by sec. 502(d) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2326).

of defense of the Panama Canal, is essential to protecting and promoting the interests of the United States.

(b) SENSE OF CONGRESS.—In light of the findings in subsection (a), it is the sense of Congress that the President should take all steps necessary to ensure the continued ability of the United States Southern Command (or any successor command) to carry out assigned missions, especially the mission of defense of the Panama Canal.

SEC. 1302.[26] LIMITATION ON ASSISTANCE TO PANAMANIAN DEFENSE FORCE

(a) LIMITATION.—The President may not use any funds appropriated to or for the use of any department, agency, or other entity of the United States for the purpose of providing assistance to the Panamanian Defense Force. The limitation in the preceding sentence shall cease to apply upon the submission by the President to Congress of a certification by the President—

(1) that no armed forces of the Soviet Union, the Republic of Cuba, or the Republic of Nicaragua are present in the Republic of Panama (other than military attachés accredited to the Republic of Panama); and

(2) that General Manuel Noriega has relinquished command of the Panamanian Defense Force and no longer holds any official position of leadership (either military or civilian) in the Republic of Panama.

(b) CLARIFICATION.—Subsection (a) does not prohibit the President from obligating or expending any funds necessary for—

(1) the defense of the Panama Canal,

(2) the collection of intelligence,

(3) the maintenance of United States Armed Forces in the Republic of Panama, or

(4) the protection of United States interests in the Republic of Panama.

(c) REPORT.—Not later than 30 days after the date of the enactment of this Act, the President shall submit to Congress a detailed report, in both classified and unclassified form, indicating—

(1) whether (and to what extent) military, paramilitary, or intelligence personnel of the Soviet Union, Cuba, or Nicaragua are present in the Republic of Panama; and

(2) whether (and to what extent) the Panamanian Defense Force has coordinated with, cooperated with, supported, or received support from, any such personnel.

SEC. 1303. SENSE OF CONGRESS CONCERNING INDICTMENT OF GENERAL NORIEGA OF PANAMA ON DRUG-RELATED CHARGES

(a) FINDINGS.—The Congress finds that—

(1) General Manuel Noriega, the commander of the Panamanian Defense Force, was indicted on February 5, 1988, in the United States District Courts for the Southern District and for the Middle District of Florida on a number of serious drug-related charges against the laws of the United States, including charges involving trafficking in illegal drugs, protecting and supporting drug traffickers, and laundering of drug-related money; and

[26] 22 U.S.C. 2151 note.

(2) there have been reports in the news media and from other sources that discussions between officials of the United States and General Noriega may have occurred concerning arrangements under which General Noriega would give up political power and leave the Republic of Panama in exchange for which the United States would file a motion to dismiss the indictments referred to in paragraph (1).

(b) SENSE OF CONGRESS.—It is the sense of Congress—

(1) that the United States should not conduct or authorize any negotiations or discussions, and should not make any arrangements, with General Manuel Noriega which would involve any effort by the United States to dismiss the indictments referred to in subsection (a)(1); and

(2) that any such negotiation, discussion, or arrangement—

(A) would be incompatible with the high priority that the United States places on the war on drugs;

(B) would not further the prospects for restoring noncorrupt, democratic government to the Republic of Panama; and

(C) would not serve the interests of the United States.

SEC. 1304. SENSE OF CONGRESS ON INTRODUCTION OF ARMED FORCES INTO NICARAGUA FOR COMBAT

Congress hereby reaffirms the sense of Congress expressed in the first session of the 99th Congress (in section 1451 of the Department of Defense Authorization Act, 1986 (Public Law 99–145; 99 Stat. 760)), that United States Armed Forces should not be introduced into or over Nicaragua for combat. However, nothing in this section shall be construed as affecting the authority and responsibility of the President or Congress under the Constitution, statutes, or treaties of the United States in force.

SEC. 1305. HUMAN RIGHTS VIOLATIONS BY THE GOVERNMENT OF POLAND

(a) FINDINGS.—Congress makes the following findings:

(1) The government of Poland, headed by General Wojciech Jaruzelski, has violated internationally recognized human rights of the people of Poland, including the right to peaceably assemble, the right to strike, the right to freely associate, and the right to due process.

(2) The Jaruzelski government has retaliated against the justified, peaceful protests of workers at Nowa Huta, Poland, through the use of violence and force.

(3) The Jaruzelski government has prosecuted and imprisoned a number of persons for politically related offenses.

(4) The Jaruzelski government has to date refused to take steps which would guarantee the right of the people of Poland to participate in the management of the economy of Poland and has refused to accept the principle of pluralism in the national life of Poland.

(b) SENSE OF CONGRESS.—It is, therefore, the sense of Congress—

(1) that the use of force against the workers of Nowa Huta and intimidation against other strikers in Poland should be condemned; and

(2) that improvement in relations between the United States and Poland must be predicated on an improvement in internationally recognized human rights in Poland, including the release of political prisoners, steps toward trade union pluralism and the rights of independent trade unions to organize, and steps toward genuine national reconciliation and dialogue.

SEC. 1306. CONDITIONS FOR SALE OR OTHER TRANSFER OF F–15 AIRCRAFT TO SAUDI ARABIA

(a) Notwithstanding any other provision of law, any sale or other transfer to Saudi Arabia by the United States of F–15 aircraft shall be subject to the following conditions:

(1) Any such F–15 aircraft sold or otherwise transferred to Saudi Arabia shall be limited to models A, B, C, and D.

(2) The United States shall not sell or otherwise transfer to Saudi Arabia the F–15–E with a ground attack capability and shall not upgrade existing Saudi aircraft to that capability.

(3) Saudi Arabia shall not possess more than 60 F–15 aircraft at any time, except that additional replacement F–15 aircraft may be held in the United States, at the expense of Saudi Arabia, for shipment to Saudi Arabia only after the President notifies Congress that the existing inventory of F–15 aircraft held by Saudi Arabia is less than 60 and, then, only on a one-for-one replacement basis as each F–15 aircraft is totally removed from the inventory of Saudi Arabia.

(b)[27] The President may waive subsection (a) if the President certifies to Congress that such action is in the national interest.

SEC. 1307. RESTRICTION ON SALE OF DEFENSE ARTICLES TO CERTAIN NATIONS

(a) RESTRICTION.—During fiscal year 1989, the United States may not make any sale of defense articles subject to section 36(b) of the Arms Export Control Act (22 U.S.C. 2776(b)) to any nation which has acquired intermediate-range ballistic missiles made by the People's Republic of China.

(b) PRESIDENTIAL CERTIFICATION.—(1) The restriction in subsection (a) shall cease to apply with respect to any nation which has acquired such missiles upon certification by the President to Congress that that nation does not have chemical, biological, or nuclear warheads for those missiles.

(2) If the President makes a certification under paragraph (1) in the case of any nation, the President shall notify Congress promptly of any evidence that, after the date of such certification, such nation has acquired chemical, biological, or nuclear warheads for those missiles.

SEC. 1308. UNITED STATES BASES IN THE REPUBLIC OF THE PHILIPPINES

(a) CONGRESSIONAL FINDINGS.—Congress makes the following findings:

(1) The United States has maintained military bases in the Philippines since 1947 pursuant to the United States-Philippine Military Bases Agreement and maintained military

[27] In a memorandum for the Secretary of State of August 8, 1990 (55 F.R. 32591), the President certified "that it is in the national interest of the United States to waive section 1306(a)".

bases in the Philippines for many years before that under other arrangements.

(2) Clark Air Force Base, Subic Bay Naval Base, and the other United States military installations in the Philippines significantly promote the mutual interests of the United States and the Philippines and contribute to regional and global security.

(3) These installations are also important to the development of democratic institutions and to economic progress in the Western Pacific and Southeast Asia.

(4) The United States military installations in the Philippines employ a loyal and highly skilled cadre of Filipinos and make a substantial contribution to the Philippine economy.

(5) The Military Bases Agreement as currently in effect has a fixed term lasting until September 16, 1991, after which it continues in effect subject to termination by either party on one year's notice.

(6) Pursuant to a 1979 amendment to that agreement, the President of the United States pledged to the Government of the Republic of the Philippines to undertake "best efforts" to obtain security assistance for the Philippines, and such pledge was reiterated by the President of the United States in 1983 as part of a five-year review of the agreement.

(7) The United States and the Republic of the Philippines are currently engaged in a second five-year review of the Military Bases Agreement.

(8) Officials of the Government of the Republic of the Philippines have indicated to officials of the United States that the United States should significantly increase compensation for the use by the United States of military bases in the Philippines.

(9) The provision of multilateral economic assistance to the Republic of the Philippines should be considered separately from the provision of security assistance by the United States to the Republic of the Philippines in return for United States basing rights in the Philippines.

(b) REPORT ON FACILITIES.—(1) The Secretary of Defense shall submit to Congress a report on the existing United States military facilities in the Republic of the Philippines. The report shall include analysis of the following:

(A) The costs and benefits of maintaining those facilities, including the costs to the United States of the operation and maintenance of those facilities and any other costs associated with those facilities and the economic and social benefits and other benefits of those facilities to the Republic of the Philippines.

(B) Potential alternative locations for those facilities.

(C) The strategic value to the United States of having military facilities located in the Philippines and of having such facilities at the potential alternative locations considered.

(D) The costs and benefits of relocating those facilities to the potential alternative locations, including—

(i) the cost to the United States of operation and maintenance and other costs,

(ii) the economic, social, and other costs to the Philippines, and

(iii) the economic, social, and other benefits to the government and community at each alternative location.

(E) The availability of skilled indigenous personnel at the potential alternative locations and the cost of training such personnel to work at such installations.

(2) The report shall be prepared in consultation with the Secretary of State and shall be submitted to Congress not later than six months after the date of the enactment of this Act.

SEC. 1309.[28] * * * [Repealed—1992]

SEC. 1310. ECONOMIC SANCTIONS AGAINST ETHIOPIA

(a) STATEMENTS OF POLICY.—The Congress—

(1) condemns the Government of Ethiopia for its blatant disregard for human life as demonstrated by its use of food as a weapon, its forced resettlement program, and its human rights record;

(2) in the strongest terms possible, urges the Government of Ethiopia to allow foreign relief personnel to return to the north and to allow the international relief campaign to resume operations at its own risk, while retaining full control over its assets and having access to adequate aircraft and fuel;

(3) in the strongest terms possible, urges rebel groups to cease attacks upon relief vehicles and relief distribution points and to respect the impartiality of the international relief campaign;

(4) urges the President and the Secretary of State (through direct representations to the Government of Ethiopia and certain rebel groups and through sustained multilateral initiatives involving other Western donors, the United Nations, and the Organization of African Unity) to focus world pressure and opinion upon the combatants in northern Ethiopia, to press for an "open roads/own risk" policy that will facilitate the resumption of international relief efforts in the north, to press the Government of Ethiopia and the rebel groups to reach a pragmatic, enduring political settlement, and to press the Government of Ethiopia to implement genuine and effective reform of its failed agricultural policies; and

(5) urges the President and the Secretary of State to engage in direct discussion with the Soviet Union in order that the peaceful resolution of the crisis in northern Ethiopia becomes a high priority of the Soviet Union and that the approach of the Soviet Union is consistent with that of the West.

(b) SANCTIONS.—(1) Notwithstanding any other provision of law, the President is authorized to, and is hereby strongly urged to, impose such economic sanctions upon Ethiopia as the President determines to be appropriate (subject to paragraphs (2) and (3)) if, at any time after the date of the enactment of this Act, the Government of Ethiopia engages in any of the following outrages:

(A) Forced resettlement.

(B) Forced confinement in any resettlement camp.

[28] Sec. 1074 of Public Law 102–484 (106 Stat. 2511) repealed sec. 1309, which required an annual assessment of security at U.S. bases in the Philippines.

(C) Diversion of international relief to the military.

(D) Denial of international relief to any persons at risk because of famine.

(E) Seizure of international relief assets provided by the United States.

(F) Prohibition of end-use monitoring of food distribution by international relief personnel.

(2) In imposing sanctions pursuant to paragraph (1) on imports from Ethiopia, the President shall give priority consideration to those products which constitute major imports from Ethiopia, unless the President determines that sanctions against such products would have an adverse effect on economic interests of the United States.

(3) If a sanction imposed pursuant to paragraph (1) involves the prohibition or curtailment of exports to Ethiopia, that sanction may only be imposed under the authority and subject to the requirements of section 6 of the Export Administration Act of 1979.

(c) REPORTS TO CONGRESS.—Not more than 15 days after the date of the enactment of this Act and at the end of each 90-day period thereafter, the President shall submit to Congress a report stating whether or not, during the 90-day period preceding the date of the report, the Government of Ethiopia engaged in any conduct described in subsection (b). Each such report shall describe the response of the United States to any such conduct.

(d) REGULATION AUTHORITY.—The President shall issue such regulations, licenses, and orders as are necessary to implement any sanction imposed under this section.

(e) EXPIRATION.—The authority provided by subsection (b) shall expire on June 1, 1990.

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TITLE XIV—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

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PART C—MISCELLANEOUS PROVISIONS

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SEC. 1436.[29] * * * [Redesignated—2003]

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[29] Formerly at 42 U.S.C. 2121 note, relating to nuclear test ban readiness program. Redesignated as sec. 4207 of Public Law 107–314, 50 U.S.C. 2527, by sec. 3141(e)(8) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1759).

y. Department of Defense Appropriations Act, 1989

Partial text of Public Law 100–463 [H.R. 4781], 102 Stat. 2270, approved October 1, 1988; as amended by Public Law 100–526 [Defense Authorization Amendments and Base Closure and Realignment Act, S. 2749], 102 Stat. 2623, approved October 24, 1988; Public Law 100–690 [Anti-Drug Abuse Act of 1988, H.R. 5210], 102 Stat 4181, approved November 18, 1988; Public Law 104–106 [National Defense Authorization Act for Fiscal Year 1996; S. 1124], 110 Stat. 186, approved February 10, 1996; and by Public Law 106–65 [National Defense Authorization Act for Fiscal Year 2000; S. 1059], 113 Stat. 512, approved October 5, 1999

AN ACT Making appropriations for the Department of Defense for the fiscal year ending September 30, 1989, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1989, for military functions administered by the Department of Defense, and for other purposes, namely:

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TITLE VIII

GENERAL PROVISIONS

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SEC. 8125.[1] (a)(1) Not later than March 1, 1989, the Secretary of Defense shall submit to Congress a report on the assignment of military missions among the member countries of North Atlantic Treaty Organization (NATO) and on the prospects for the more effective assignment of such missions among such countries.

(2) The report shall include a discussion of the following:

(A) The current assignment of military missions among the member countries of NATO.

(B) Military missions for which there is duplication of capability or for which there is inadequate capability within the current assignment of military missions within NATO.

(C) Alternatives to the current assignment of military missions that would maximize the military contributions of the member countries of NATO.

(D) Any efforts that are underway within NATO or between individual member countries of NATO at the time the report is submitted that are intended to result in a more effective assignment of military missions within NATO.

(b) The Secretary of Defense and the Secretary of State shall (1) conduct a review of the long-term strategic interests of the United States overseas and the future requirements for the assignment of

[1] 10 U.S.C. 113 note.

members of the Armed Forces of the United States to permanent duty ashore outside the United States, and (2) determine specific actions that, if taken, would result in a more balanced sharing of defense and foreign assistance spending burdens by the United States and its allies. Not later than August 1, 1989, the Secretary of Defense and the Secretary of State shall transmit to Congress a report containing the findings resulting from the review and their determinations.

(c) The President shall appoint an Ambassador at Large responsible to the President who shall have the responsibility for ensuring a more balanced sharing of defense costs by the NATO members, Japan, the Republic of Korea, and other countries allied to the United States. Such responsibilities shall include negotiations for burdensharing including increased in-kind and financial support by such countries for Department of Defense military units and personnel assigned to permanent duty ashore outside the United States in support of the security of such countries, and multi-lateral foreign assistance costs: *Provided,* That the Ambassador at Large should review (1) trade restrictions that require German utilities to purchase German-produced coal to the exclusion of foreign coal, including United States coal, and (2) the extent to which the tax on electricity used to subsidize German coal producers is borne by American military installations, American military dependents, or American civilians who support our military installations. The Ambassador at Large should prepare an economic analysis on the comparison of using German versus United States coal at defense facilities in Europe. This analysis should address the issues of all direct subsidies provided on German coal and restrictions imposed on imported coal and should be submitted to the Department of Defense, State, and Commerce for use in their study on the economic benefits of using coal at defense facilities in Europe.

(d) The President shall specify (separately by appropriation account) in the Department of Defense items included in the budgets submitted to Congress under section 1105 of title 31, United States Code, for fiscal years after fiscal year 1989 the amounts necessary for payment of all personnel, operations, maintenance, facilities, and support costs for Department of Defense overseas military units, and the costs for all dependents who accompany Department of Defense personnel outside the United States.

(e) Not later than May 1, 1989, the Secretary of Defense shall submit to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives[2] a report that sets forth the total costs required to support the dependents who accompany Department of Defense personnel assigned to permanent duty overseas.

(f) As of September 30 of each fiscal year after fiscal year 1989, the number of members of the Armed Forces on active duty assigned to permanent duty ashore in Japan and the Republic of

[2] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. The Committee on National Security subsequently returned to the name "Committee on Armed Services"; see sec. 1067 of Public Law 106–65 (113 Stat. 774).

Korea may not exceed 94,450 (the number of members of the Armed Forces on active duty assigned to permanent duty ashore in Japan and the Republic of Korea on September 30, 1987). The limitation provided for the preceding sentence may be increased if and when a major reduction of United States forces in the Republic of the Philippines is required because of a loss of basing rights in that nation, and the President determines and certifies to Congress that, as a consequence of such loss, an increase in United States forces stationed in Japan and the Republic of Korea is necessary.

(g)(1) After fiscal year 1990, Department of Defense budget submissions to Congress under section 1105 of title 31, United States Code, shall identify funds requested for Department of Defense personnel and units in permanent duty stations ashore outside the United States that exceed the amount of such costs incurred in fiscal year 1989, and shall detail: (A) a description of the types of expenditures increased, by appropriation account, activity and program; and (B) specific efforts to obtain allied host nations' financing for these cost increases.

(2) The Secretary of Defense shall notify in advance the Committee on Appropriations and the Committee on Armed Services of the Senate and the Committee on Appropriations and the Committee on Armed Services of the House of Representatives[3] through existing notification procedures, when costs of maintaining Department of Defense personnel and units in permanent duty stations ashore will exceed the amounts as defined in the Department of Defense budget as enacted for that fiscal year. Such notification shall describe: (A) the type of expenditures that increased; and (B) the source of funds (including prior year unobligated balances) by appropriation account, activity and program, proposed to finance these costs.

(3) In computing the costs incurred for maintaining Department of Defense personnel and forces in permanent duty stations ashore outside the United States compared with the amount of such costs incurred in fiscal year 1989, the Secretary shall—

(A) exclude increased costs resulting from increases in the rates of pay provided for members of the Armed Forces and civilian employees of the United States Government and exclude any cost increases in supplies and services resulting from inflation; and

(B) include (i) the costs of operation and maintenance and of facilities for the support of Department of Defense overseas personnel, and (ii) increased costs resulting from any decline in the foreign exchange rate of the United States dollar.

(h) The provisions of subsections (f) and (g) shall not apply in time of war or during a national emergency declared by the President or Congress.

(i) In this section—

[3] Sec. 1502(f)(1) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 509) struck out "Committees on Appropriations and Armed Services of the Senate and House of Representatives" and inserted in lieu thereof "Committee on Appropriations and the Committee on Armed Services of the Senate and the Committee on Appropriations and the Committee on National Security of the House of Representatives". Sec. 1067(14) of Public Law 106–65 (113 Stat. 774) subsequently struck out "Committee on National Security" and inserted in lieu thereof "Committee on Armed Services".

(1) the term "personnel" means members of the Armed Forces of the United States and civilian employees of the Department of Defense;

(2) the term "Department of Defense overseas personnel" means those Department of Defense personnel who are assigned to permanent duty ashore outside the United States; and

(3) the term "United States" includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

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z. National Defense Authorization Act for Fiscal Years 1988 and 1989

Partial text of Public Law 100–180 [H.R. 1748], 101 Stat. 1019, approved December 4, 1987; as amended by Public Law 100–456 [National Defense Authorization Act, Fiscal Year 1989; H.R. 4481], 102 Stat. 1918, approved September 29, 1988; Public Law 103–199 [FRIENDSHIP Act; H.R. 3000], 107 Stat. 2317, approved December 17, 1993; and by Public Law 104–106 [National Defense Authorization Act for Fiscal Year 1996; S. 1124], 110 Stat. 186, approved February 10, 1996

AN ACT To authorize appropriations for fiscal years 1988 and 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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TITLE I—PROCUREMENT

PART A—FUNDING AUTHORIZATIONS

* * * * * * *

SEC. 107. AUTHORIZATION OF FUNDS FOR CHEMICAL DEMILITARIZATION PROGRAM

Funds are hereby authorized to be appropriated to the Secretary of Defense for fiscal year 1988 for the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (Public Law 99–145; 99 Stat. 747), in the amount of $125,100,000, of which—

(1) $94,100,000 shall be for operation and maintenance;

(2) $11,500,000 shall be for research, development, test and evaluation; and

(3) $19,500,000 shall be for procurement.

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PART C—MISCELLANEOUS PROVISIONS

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SEC. 125.[1] REVISION OF CHEMICAL DEMILITARIZATION PROGRAM

(a) DEFINITION.—For purposes of this section, the term "chemical stockpile demilitarization program" means the program established by section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), to provide for the destruction of the United States' stockpile of lethal chemical agents and munitions.

(b) ENVIRONMENTAL IMPACT STATEMENT.—The Secretary of Defense shall issue the final Programmatic Environmental Impact

[1] 50 U.S.C. 1521 note.

Statement on the chemical stockpile demilitarization program by January 1, 1988. The Environmental Impact Statement shall be prepared in accordance with all applicable laws.

(c) DISPOSAL TECHNOLOGIES.—(1) Funds appropriated pursuant to this Act or otherwise made available for fiscal year 1988 for the chemical stockpile demilitarization program may not be obligated for procurement or for an Army military construction project at a military installation or facility inside the continental United States until the Secretary of Defense certifies to Congress in writing that the concept plan under the program includes the following:

(A) Evaluation of alternate technologies for disposal of the existing stockpile and selection of the technology or technologies to be used for such purpose.

(B) Full-scale operational verification of the technology or technologies selected for such disposal.

(C) Maximum protection for public health and the environment.

(2) The limitation in paragraph (1) shall not apply with respect to the obligation of funds for the technology evaluation or development program.

(d) ALTERNATIVE CONCEPT PLAN.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives[2] an alternative concept plan for the chemical stockpile demilitarization program. The alternative concept plan shall—

(1) incorporate the requirements of subsections (b) and (c); and

(2) specify any revised schedule or revised funding requirement necessary to enable the Secretary to meet the requirements of subsections (b) and (c).

The alternative concept plan shall be submitted by March 15, 1988.

(e) SURVEILLANCE AND ASSESSMENT PROGRAM.—The Secretary of Defense shall conduct an ongoing comprehensive program of—

(1) surveillance of the existing United States stockpile of chemical weapons; and

(2) assessment of the condition of the stockpile.

SEC. 126.[3] WITHDRAWAL OF EUROPEAN CHEMICAL STOCKPILE

Chemical munitions of the United States stored in Europe on the date of the enactment of this Act should not be removed from Europe unless such munitions are replaced contemporaneously with binary chemical munitions stationed on the soil of at least one European member nation of the North Atlantic Treaty Organization.

* * * * * * *

[2] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. The Committee on National Security subsequently returned to the name "Committee on Armed Services"; see sec. 1067 of Public Law 106–65 (113 Stat. 774).

[3] 50 U.S.C. 1513 note.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

PART A—AUTHORIZATIONS AND PROGRAM LIMITATIONS

* * * * * * *

SEC. 207. FUNDS FOR COOPERATIVE PROJECTS WITH MAJOR NON-NATO ALLIES

Of the funds appropriated pursuant to the authorizations of appropriations for fiscal year 1988 in section 201, up to $40,000,000 shall be available for cooperative research and development projects with major non-NATO allies under section 1105 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99–961).[4]

SEC. 208.[5] ONE-YEAR UNITED STATES MORATORIUM ON TESTING ANTISATELLITE WEAPONS

(a) TESTING MORATORIUM.—The Secretary of Defense may not carry out a test of the Space Defense System (antisatellite weapon) involving the F–15 launched miniature homing vehicle against an object in space until the President certifies to Congress that the Soviet Union has conducted, after the date of the enactment of this Act, a test against an object in space of a dedicated antisatellite weapon.

(b) EXPIRATION.—The prohibition in subsection (a) expires on October 1, 1988.

PART B—PROGRAM POLICIES

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SEC. 220. SENSE OF CONGRESS ON STRATEGIC MISSILE MODERNIZATION PROGRAMS

(a) FINDINGS.—The Congress makes the following findings:

(1) It is essential that the nation's defense priorities be carefully analyzed so as to properly fund the Armed Forces.

(2) The capabilities of the conventional forces of the United States and its allies will become more important if an agreement with respect to intermediate-range nuclear forces (INF) is concluded between the United States and the Soviet Union.

(3) It is both desirable and possible to reduce the reliance of the North Atlantic Treaty Organization on nuclear weapons for the defense of all members of the alliance if the member nations of the alliance assert the political will to reduce such reliance and establish sound defense priorities.

(4) The United States is currently procuring and deploying one land-based intercontinental ballistic missile system (the MX system) at significant cost while developing another such system (the so-called Midgetman system) at significant additional cost.

(5) Efforts to reduce the Federal budget deficit, which are imperative for the economic well being of the United States, will continue for the foreseeable future to require limits on all discretionary Federal spending, including defense spending.

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[4] Should read Public Law 99–661. Sec. 1105 was repealed in 1989.
[5] 10 U.S.C. 2431 note.

(b) SENSE OF CONGRESS.—In light of the findings in subsection (a), it is the sense of Congress that the authorization of funds in this Act for research and development for both the new small mobile intercontinental ballistic missile (commonly known as the "Midgetman" missile) and the proposed rail-mobile basing mode for the MX missile does not constitute a commitment or express an intent by Congress to provide funds to procure and deploy the Midgetman missile or to deploy any MX missiles in a rail-mobile basing mode or both.

PART C—STRATEGIC DEFENSE INITIATIVE

Subpart 1—SDI Funding and Program Limitations and Requirements

SEC. 221. FISCAL YEAR 1988 FUNDING LEVEL FOR THE STRATEGIC DEFENSE INITIATIVE

(a) AMOUNT AUTHORIZED.—Of the amounts appropriated pursuant to section 201 or otherwise made available to the Department of Defense for research, development, test, and evaluation for fiscal year 1988, not more than $3,621,000,000 may be obligated for the Strategic Defense Initiative.

(b) SPECIFIED ACTIVITIES.—Of the funds available for the Strategic Defense Initiative program under subsection (a)—

(1) $27,000,000 shall be available only for a classified laser program;

(2) $15,000,000 shall be available only for medical applications of the free electron laser program for medical research and material; and

(3) $17,000,000 is available for defense-wide mission support for the Strategic Defense Initiative.

(c) DEFENSE-WIDE MISSION SUPPORT.—Of the amount appropriated for Defense Agencies for fiscal year 1987, $16,000,000 may be used for defense-wide mission support for the Strategic Defense Initiative.

SEC. 222.[6] PROHIBITION OF CERTAIN CONTRACTS WITH FOREIGN ENTITIES

(a) SDI CONTRACTS WITH FOREIGN ENTITIES.—Funds appropriated to or for the use of the Department of Defense may not be used for the purpose of entering into or carrying out any contract with a foreign government or a foreign firm if the contract provides for the conduct of research, development, test, or evaluation in connection with the Strategic Defense Initiative program.

(b) TEMPORARY SUSPENSION OF PROHIBITION UPON CERTIFICATION OF THE SECRETARY OF DEFENSE.—The prohibition in subsection (a) shall not apply to a contract in any fiscal year if the Secretary of Defense certifies to Congress in writing at any time during such fiscal year that the research, development, testing, or evaluation to be performed under such contract cannot be competently performed by a United States firm at a price equal to or less than the price at which the research, development, testing, or evaluation would be performed by a foreign firm.

[6] 10 U.S.C. 2431 note.

(c) EXCEPTIONS FOR CERTAIN CONTRACTS.—The prohibition in subsection (a) shall not apply to a contract awarded to a foreign government or foreign firm if—

(1) the contract is to be performed within the United States;

(2) the contract is exclusively for research, development, test, or evaluation in connection with antitactical ballistic missile systems; or

(3) that foreign government or foreign firm agrees to share a substantial portion of the total contract cost.

(d) DEFINITIONS.—In this section:

(1) The term "foreign firm" means a business entity owned or controlled by one or more foreign nationals or a business entity in which more than 50 percent of the stock is owned or controlled by one or more foreign nationals.

(2) The term "United States firm" means a business entity other than a foreign firm.

(e) TRANSITION.—The prohibition in subsection (a) shall not apply to a contract entered into before the date of the enactment of this Act.

SEC. 223.[6,7] LIMITATION ON TRANSFER OF CERTAIN MILITARY TECHNOLOGY TO INDEPENDENT STATES OF THE FORMER SOVIET UNION.

Military technology developed with funds appropriated or otherwise made available for the Ballistic Missile Defense Program may not be transferred (or made available for transfer) to Russia or any other independent state of the former Soviet Union by the United States (or with the consent of the United States) unless the President determines, and certifies to the Congress at least 15 days prior to any such transfer, that such transfer is in the national interest of the United States and is to be made for the purpose of maintaining peace.

SEC. 224.[6] SDI ARCHITECTURE TO REQUIRE HUMAN DECISION MAKING

No agency of the Federal Government may plan for, fund, or otherwise support the development of command and control systems for strategic defense in the boost or post-boost phase against ballistic missile threats that would permit such strategic defenses to initiate the directing of damaging or lethal fire except by affirmative human decision at an appropriate level of authority.

SEC. 225. DEVELOPMENT AND TESTING OF ANTI-BALLISTIC MISSILE SYSTEMS OR COMPONENTS

(a) USE OF FUNDS.—(1) Funds appropriated to the Department of Defense for fiscal year 1988, or otherwise made available to the Department of Defense from any funds appropriated for fiscal year

[7] Sec. 203(a)(1) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2321) amended and restated sec. 223. It formerly read as follows:

"SEC. 223. LIMITATION ON TRANSFER OF SDI TECHNOLOGY TO SOVIET UNION

"Military technology developed with funds appropriated or otherwise made available for the Strategic Defense Initiative may not be transferred, or made available for transfer, to the Soviet Union by the United States (or with the consent of the United States) unless—

"(1) the President determines, and certifies to Congress, that the transfer is in the national interest of the United States and is to be made for the purpose of maintaining peace; and

"(2) Congress approves that determination by a joint resolution.".

1988 or for any fiscal year before fiscal year 1988, shall be subject to the limitations prescribed in paragraph (2).

(2) The funds described in paragraph (1) may not be obligated or expended—

(A) for any development or testing of anti-ballistic missile systems or components except for development and testing consistent with the development and testing described in the April 1987 SDIO Report; or

(B) for the acquisition of any material or equipment (including any long lead materials, components, piece parts, test equipment, or any modified space launch vehicle) required or to be used for the development or testing of anti-ballistic missile systems or components, except for material or equipment required for development or testing consistent with the development and testing described in the April 1987 SDIO Report.

(3) The limitation under paragraph (2) shall not apply to funds transferred to or for the use of the Strategic Defense Initiative for fiscal year 1988 if the transfer is made in accordance with section 1201 of this Act and any comparable provision in legislation appropriating funds for military functions of the Department of Defense for fiscal year 1988.

(b) DEFINITION.—As used in this section, the term "April 1987 SDIO Report" means the report entitled "Report to Congress on the Strategic Defense Initiative", dated April 1987, prepared by the Strategic Defense Initiative Organization and submitted to certain committees of the Senate and House of Representatives pursuant to section 1102 of the Department of Defense Authorization Act, 1985 (Public Law 98–525; 10 U.S.C. 2431 note).

SEC. 226.[8] * * * [Repealed—1996]

SEC. 227.[6] **ESTABLISHMENT OF A FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTER TO SUPPORT THE STRATEGIC DEFENSE INITIATIVE PROGRAM**

(a) FINDINGS.—The Congress makes the following findings:

(1) The Department of Defense requires technical support for issues of system integration related to the Strategic Defense Initiative program.

(2) The Strategic Defense Initiative Organization, after assessing alternative types of organizations for the provision of such technical support to the Strategic Defense Initiative program (including Government organizations, profit and nonprofit entities (including existing federally funded research and development centers), a new division within an existing federally funded research and development center, a new federally funded research and development center, colleges and universities, and private nonprofit laboratories), determined that a new federally funded research and development center (hereinafter in this section referred to as an "FFRDC") would be the type of organization most appropriate for the provision of such technical support to the Strategic Defense Initiative program.

[8] Sec. 253(3) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 234) repealed sec. 226, which had prohibited the Secretary of Defense from deploying any anti-ballistic missile system unless such deployment was specifically authorized by law.

(3) In providing such technical support to the SDI program, the new FFRDC should provide critical evaluation and rigorous and objective analysis of technologies, systems, and architectures that are candidates for use in the SDI program.

(4) Competitive selection of a contractor to establish and operate such an FFRDC to support the Strategic Defense Initiative program is one way to enhance the prospects for independent and objective evaluation of system integration issues within the Strategic Defense Initiative program.

(b) AUTHORITY TO CONTRACT FOR FFRDC.—The Secretary of Defense, using funds appropriated to the Department of Defense for the Strategic Defense Initiative program, may enter into a contract to provide for the establishment and operation of a federally funded research and development center to provide independent and objective technical support to the Strategic Defense Initiative program. Such a contract may not be awarded before October 1, 1989.

(c) CONTRACT AWARD REQUIREMENTS.—(1) A contract under subsection (b) shall be awarded using competitive procedures which emphasize cost considerations.

(2) The Secretary of Defense shall solicit proposals for such contract from existing federally funded research and development centers, from universities, from commercial entities, and from appropriate new organizations and shall make maximum efforts to obtain more than one proposal for such contract.

(3) The Secretary shall submit the three best contract proposals (as determined by the Secretary), together with a copy of the proposed sponsoring agreement for the new FFRDC, for review by three persons designated by the Defense Science Board from a list of six or more persons submitted by the National Academy of Sciences. The persons performing the review—

(A) shall evaluate the extent to which each proposal and the proposed sponsoring agreement would foster competent and objective technical advice for the Strategic Defense Initiative Program; and

(B) shall report their evaluation of each such proposal and of the proposed sponsoring agreement to the Secretary.

(4) Before awarding a contract under subsection (b), and not sooner than March 30, 1989, the Secretary shall submit to Congress—

(A) a copy of the proposed final contract; and

(B) a copy of the proposed final sponsoring agreement relating to the operation of the new FFRDC.

(5)(A) The Secretary shall then withhold the award of such contract and the approval of such sponsoring agreement for a period of at least 30 days of continuous session of Congress beginning on the day after the date on which Congress receives the copies referred to in paragraph (4).

(B) For purposes of subparagraph (A), the continuity of a session of Congress is broken only by an adjournment sine die at the end of the second regular session of that Congress. In computing the 30-day period for such purposes, days on which either House of Congress is not in session because of an adjournment of more than three days to a day certain shall be excluded.

(d) REQUIREMENTS APPLICABLE TO FFRDC.—The Secretary of Defense shall—

(1) require that the contract referred to in subsection (b) include a provision stating that no officer or employee of the Department of Defense shall have the authority to veto the employment of any person selected to serve as an officer or employee of the new FFRDC;

(2) require that at least 5 percent of the total amount of funds available for the new FFRDC shall be set aside for independent research to be performed by the staff of the new FFRDC under the direction of the chief executive officer of the new FFRDC;

(3) impose a limitation on the compensation payable to each senior executive of the new FFRDC for services performed for the new FFRDC so that such compensation shall be comparable to the amount of compensation payable to senior executives of comparable federally funded research and development centers for similar services;

(4) require that the new FFRDC publicly disclose the salary of its chief executive officer;

(5) prohibit current or former members of the Strategic Defense Initiative Advisory Committee from serving as members of the Board of Trustees of the FFRDC if such members constitute 10 or more percent of the Board of Trustees or from serving as officers of the new FFRDC;

(6) require that the contract referred to in subsection (b) include a provision prohibiting members of such Board of Trustees from serving as officers of the new FFRDC, except that a Board member may serve as the President of the new FFRDC if the Board is comprised of 10 or more members;

(7) require that the contract referred to in subsection (b) include a provision prohibiting the new FFRDC from employing any person who, as a Federal employee or member of the Armed Forces, served in the Strategic Defense Initiative Organization within two years before the date on which such person is to be employed by the new FFRDC; and

(8) require that any contract referred to in subsection (b) require that the Board of Trustees of the new FFRDC be comprised of individuals who represent a reasonable cross-section of views on the engineering and scientific issues associated with the Strategic Defense Initiative Program.

(e) FUNDING.—The Secretary of Defense shall provide that all funds for the new FFRDC within the Department of Defense budget for any fiscal year shall be separately identified and set forth in the budget presentation materials submitted to Congress for that fiscal year.

(f) SUNSET PROVISION.—No Federal funds may be provided to the new FFRDC after the end of the five-year period beginning on the date of the award of the first contract awarded to the FFRDC under this section.

Subpart 2—Report Requirements

SEC. 231.[6] ANNUAL REPORT ON SDI PROGRAMS

(a) IN GENERAL.—Not later than March 15, 1988, and March 15, 1989, the Secretary of Defense shall transmit to Congress a report (in both an unclassified and a classified form) on the programs that constitute the Strategic Defense Initiative and on any other program relating to defense against ballistic missiles. Each such report shall include the following:

(1) A detailed description of each program or project included in the Strategic Defense Initiative (SDI) or which otherwise relates to defense against strategic ballistic missiles, including a technical evaluation of each such program or project and an assessment as to when each can be brought to the stage of full-scale engineering development (assuming funding as requested or programmed).

(2) A clear definition of the objectives of each phase of the Strategic Defense Initiative Organization plan approved by the Defense Acquisition Board.

(3) An explanation of the relationship between each such objective and each program and project associated with the Strategic Defense Initiative or defense against strategic ballistic missiles.

(4) The status of consultations with other member nations of the North Atlantic Treaty Organization, Japan, and other appropriate allies concerning research being conducted in the Strategic Defense Initiative program.

(5) A statement of the compliance of the planned SDI development and testing programs with existing arms control agreements, including the Antiballistic Missile Treaty.

(6) A review of possible countermeasures of the Soviet Union to specific SDI programs, an estimate of the time and cost required for the Soviet Union to develop each such countermeasure, and an evaluation of the adequacy of the SDI programs described in the report to respond to such countermeasures.

(7) Details regarding funding of programs and projects for the Strategic Defense Initiative, including—

(A) the level of funding provided for the current fiscal year and for previous fiscal years for each program and project in the Strategic Defense Initiative budgetary presentation materials provided to Congress;

(B) the amount requested to be appropriated for each such program and project for the next fiscal year;

(C) the amount programmed to be requested for each such program and project for the following fiscal year; and

(D) the amount required to reach the next significant milestone for each demonstration program and each major technology program.

(8) Details on what Strategic Defense Initiative technologies can be developed or deployed within the next 5 to 10 years to defend against significant military threats and help accomplish critical military missions. The missions to be considered include—

(A) defending elements of the Armed Forces abroad and United States allies against tactical ballistic missiles, particularly new and highly accurate Soviet shorter range ballistic missiles armed with conventional, chemical, or nuclear warheads;

(B) defending against an accidental launch of strategic ballistic missiles against the United States;

(C) defending against a limited but militarily effective Soviet attack aimed at disrupting the National Command Authority or other valuable military assets;

(D) providing sufficient warning and tracking information to defend or effectively evade possible Soviet attacks against military satellites, including those in high orbits;

(E) providing early warning and attack assessment information and the necessary survivable command, control, and communications to facilitate the use of United States military forces in defense against possible Soviet conventional or strategic attacks;

(F) providing protection of United States population from a Soviet nuclear attack; and

(G) any other significant near-term military mission that the application of SDI technologies might help to accomplish.

(9) For each of the near-term military missions listed in paragraph (8), the report shall include—

(A) a list of specific program elements of the Strategic Defense Initiative that are pertinent to these applications;

(B) the Secretary's estimate of the initial operating capability dates for the architectures or systems to accomplish such missions;

(C) the Secretary's estimate of the level of funding necessary for each program to reach those operating capability dates; and

(D) the Secretary's estimate of the survivability and cost effectiveness at the margin of such architectures or systems against current and projected Soviet threats.

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SEC. 232. REPORT ON SDI DEVELOPMENT PLANS AND COSTS

(a) REPORT REQUIREMENT.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives[9] a report on the total cost to develop, produce, deploy, operate, and maintain the ballistic missile defense system that would incorporate the technologies approved by the Secretary of Defense in authorizing proceeding into the demonstration/validation phase of the acquisition process. Should this system not be sufficiently defined, the system described in the 1987 report entitled "Report of the Technical Panel on Missile Defense in the 1990s",

[9] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. The Committee on National Security subsequently returned to the name "Committee on Armed Services"; see sec. 1067 of Public Law 106–65 (113 Stat. 774).

prepared by the George C. Marshall Institute, should be used as a basis for determining cost.

(b) DEADLINE FOR REPORT; CLASSIFICATION.—The report under subsection (a) shall be submitted no later than six months after the date of the enactment of this Act and shall be submitted in unclassified form.

SEC. 233. REPORT ON HOW ABSENCE OF THE ABM TREATY WOULD AFFECT STRATEGIC OFFENSIVE AND DEFENSIVE PROGRAMS

(a) REPORT ON NO ABM TREATY LIMITATIONS.—The Secretary of Defense shall submit to Congress a report concerning what the effect would be on strategic offensive and defensive programs of the United States if there were no limitations on strategic defensive systems in force under the 1972 ABM Treaty.

(b) MATTERS TO BE INCLUDED.—The report shall include the following:

(1) An analysis of the ramifications of there being no limitation in force under the 1972 ABM Treaty on development under the Strategic Defense Initiative (SDI) program of strategic defenses, including comprehensive strategic defense systems and more limited defenses designed to protect vital military and command and control assets of the United States.

(2) A comparison (based on the analysis made under paragraph (1)) of the research and development programs that could be pursued under the SDI program under the limitations applicable under the restrictive interpretation of the 1972 ABM Treaty, under the less restrictive interpretation of such treaty, and under a case in which there were no such limitations, including a comparative analysis of—

(A) the overall cost of such research and development programs;

(B) the schedule of such research and development programs; and

(C) the level of confidence attained in such research and development programs with respect to supporting a decision to commence full-scale engineering development under such programs in the early-to-mid 1990s.

(3) A list of options for the SDI program, assuming that there are no limitations in force under the 1972 ABM Treaty, that meet one or more of the following objectives:

(A) Reduction of overall development cost.

(B) Advancement of the schedule for making a decision to commence full-scale engineering development.

(C) Increase in the level of confidence in the results of the research by the original scheduled date for the commencement of full-scale development.

(4) An analysis of how rapidly, in the absence of limitations under the 1972 ABM Treaty, the Soviet Union could deploy a nationwide anti-ballistic missile defense of military and nonmilitary targets and the consequences of such a deployment. The analysis should include an assessment of the following:

(A) The effect of such deployment on the confidence of the United States that, should deterrence that depends increasingly on defensive forces fail, the planned strategic

nuclear forces of the United States would be sufficient to hold assets that the leaders of the Soviet Union value at risk following a first strike by the Soviet Union against the United States.

(B) The changes that must be made to the strategic offensive forces of the United States to hold assets that the leaders of the Soviet Union value at risk in the presence of strategic defenses. The analysis should include both the cost of those changes and the time period scale over which they could be accomplished.

(C) The consistency of the required changes to United States strategic offensive forces of the United States described under subparagraph (B) with the current United States negotiating position in the Strategic Arms Reduction (START) negotiations.

(D) The degree to which crisis stability would be affected during the transition period between the appearance of nationwide anti-ballistic missile defenses by both the United States and the Soviet Union and the completion of the changes that the United States would make to its strategic offensive forces in response to such defenses by the Soviet Union.

(5) An analysis of the effect on deterrence of nuclear conflict if both the United States and Soviet Union deploy strategic defenses of comparable capability, considering both less capable and highly capable strategic defenses, as well as appropriate transition issues (including the effect on deterrence of the potential vulnerability of strategic defenses).

(c) DEADLINE FOR REPORT.—The report under subsection (a) shall be submitted not later than March 1, 1988.

(d) REPORT CLASSIFICATION.—The report under subsection (a) shall be submitted in both classified and unclassified versions.

(e) 1972 ABM TREATY DEFINED.—In this section, the term "1972 ABM Treaty" means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missiles, signed at Moscow on May 26, 1972.

SEC. 234. REPORT ON ALLOCATION OF FY88 FUNDING

(a) IN GENERAL.—The Secretary of Defense shall submit to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives[10] a report on the allocation of funds appropriated for the Strategic Defense Initiative for fiscal year 1988. The report shall set out the amount of such funds allocated for each program, project, or activity of the Strategic Defense Initiative within each appropriation account.

(b) DEADLINE FOR REPORT.—The report required by subsection (a) shall be submitted not later than 90 days after the date of the

[10] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. The Committee on National Security subsequently returned to the name "Committee on Armed Services"; see sec. 1067 of Public Law 106–65 (113 Stat. 774).

enactment of legislation appropriating funds for the Strategic Defense Initiative for fiscal year 1988.

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TITLE III—OPERATION AND MAINTENANCE

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PART C—HUMANITARIAN AND OTHER ASSISTANCE

SEC. 331. EXTENSION OF AUTHORIZATION FOR HUMANITARIAN ASSISTANCE

(a) AUTHORIZATION OF FUNDS.—There is authorized to be appropriated to the Department of Defense for fiscal year 1988 the sum of $13,000,000 for the purpose of providing transportation for humanitarian relief for persons displaced or who are refugees because of the invasion of Afghanistan by the Soviet Union. Of this sum, not more than $3,000,000 is authorized to be used for distribution of humanitarian relief supplies to the non-Communist resistance organizations at or near the border between Thailand and Cambodia.

(b) AUTHORITY TO TRANSFER FUNDS.—The Secretary of Defense is authorized to transfer to the Secretary of State not more than $3,000,000 of the funds appropriated pursuant to the authorization in this section to provide for (1) paying for administrative costs of providing the transportation described in subsection (a), and (2) the purchase or other acquisition of transportation assets for the distribution of relief supplies in the country of destination.

(c) TRANSPORTATION UNDER DIRECTION OF THE SECRETARY OF STATE.—Transportation provided with funds appropriated pursuant to the authorization in this section shall be under the direction of the Secretary of State.

(d) MEANS OF TRANSPORTATION TO BE USED.—Transportation for humanitarian relief provided with funds appropriated pursuant to the authorization in this section shall be by the most economical commercial or military means available, unless the Secretary of State determines that it is in the national interest of the United States to use means other than the most economical available. Such means may include the use of aircraft and personnel of the reserve components of the Armed Forces.

(e) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to the authorization in subsection (a) shall remain available until expended, to the extent provided in appropriations Acts.

(f) REPORTS.—The Secretary of Defense shall submit to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives [11] two reports, one of which shall be submitted not later than 60 days after the date of the enactment of

[11] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. Sec. 1(a)(5) of that Act provided that references to the Committee on Foreign Affairs shall be treated as referring to the Committee on International Relations. The Committee on National Security subsequently returned to the name "Committee on Armed Services"; see sec. 1067 of Public Law 106–65 (113 Stat. 774).

this Act and the other not later than June 1, 1988. Each such report shall contain (as of the date on which the report is submitted) the following information:

(1) The total amount of funds obligated for humanitarian relief under this section and section 331 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99–661; 100 Stat. 3856).

(2) The number of scheduled and completed flights for purposes of providing humanitarian relief under this section and section 331 of such Act.

(3) A description of any transfer (including to whom the transfer is made) of excess nonlethal supplies of the Department of Defense made available for humanitarian relief purposes under section 2547 of title 10, United States Code.

SEC. 332.[12] * * *

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TITLE IX—MATTERS RELATING TO ARMS CONTROL[13]

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TITLE X—MATTERS RELATING TO NATO COUNTRIES AND OTHER ALLIES

PART A—NATO DETERRENCE

SEC. 1001. REPORT ON REQUIREMENTS FOR MAINTAINING NATO'S STRATEGY OF DETERRENCE

(a) REQUIREMENT.—The Secretary of Defense shall submit to Congress a report regarding the ability of the North Atlantic Treaty Organization (NATO) to maintain its strategy of deterrence through the 1990s. The report shall include a specific discussion of the implications for such deterrence if the United States and the Soviet Union agree to a treaty which requires the elimination of all intermediate-range nuclear force (INF) missiles having a range between 500 and 5,500 kilometers. The report shall be prepared in consultation with the Supreme Allied Commander, Europe, and the Chairman of the Joint Chiefs of Staff.

(b) FORM AND CONTENT OF REPORT.—The Secretary shall submit the report required by subsection (a) in both classified and unclassified forms and shall include in the report the following:

(1) A discussion of the effect that the elimination under an INF treaty of intermediate range missiles deployed by the United States and the Soviet Union would likely have on the ability of NATO to maintain an effective flexible response strategy and credible deterrence.

(2) The appropriate numbers and types of nuclear weapons and nuclear-capable delivery systems of the United States not limited by the proposed INF treaty which the Secretary of Defense recommends for deployment in or redeployment to the European theater if an INF treaty is ratified and enters into

[12] Sec. 332 added a new section 402 to title 10, U.S.C., and made other technical changes to sec. 401.

[13] For text, see *Legislation on Foreign Relations Through 2004*, vol. II, sec. F.

force, including a description of any nuclear modernization program the Secretary has recommended or proposes to recommend as necessary to ensure that NATO will be able to maintain a credible and effective military strategy.

(3) A discussion of the balance between the nonnuclear forces of NATO and the Warsaw Pact in the European theater, the likelihood of NATO making significant improvements in that balance over the next few years, the potential effect of conventional force balance alternatives currently under consideration by the United States Government, and the likelihood and potential effect of a new agreement between NATO and the Warsaw Pact limiting nonnuclear forces on that balance.

(4) A discussion of the feasibility and cost effectiveness of substituting advanced conventional munitions for nuclear weapons currently deployed by NATO, including a discussion of the costs of such weapons and prospects for sharing such costs among NATO allies.

(5) A description of nonnuclear forces that would be needed to support the operational concept of Follow-on Forces Attack (FOFA).

(6) The status of improvements being made in the air defenses of NATO in Europe.

(7) A discussion of the views of the leaders of member nations of NATO (other than the United States) and of the Supreme Allied Commander, Europe (SACEUR), on the matters described in paragraphs (1) through (5).

(c) DEADLINE OF REPORT.—The report required by subsection (a) shall be submitted not later than the earlier of—

(1) 90 days after the date of the enactment of this Act; or

(2) the date on which the President submits to the Senate for its advice and consent a treaty described in subsection (a).

SEC. 1002. SENSE OF CONGRESS ON LEVEL OF UNITED STATES FORCES PERMANENTLY STATIONED IN EUROPE IN SUPPORT OF NATO

(a) FINDINGS.—The Congress makes the following findings with respect to the level of United States military forces permanently stationed in Europe:

(1) The agreement in principle between the United States and the Soviet Union to eliminate all intermediate-range nuclear missiles has important implications for the defense posture of the North Atlantic Treaty Organization alliance.

(2) The presence of United States forces in Europe constitutes the most visible and meaningful evidence of the continuing strong commitment of the United States to the integrity of the alliance.

(3) NATO Defense Ministers stated in May 1987 that the "continued presence of United States forces at existing levels in Europe plays an irreplaceable role in the defense of North America as well as Europe".

(b) SENSE OF CONGRESS.—(1) In light of the findings in subsection (a), it is the sense of Congress that—

(A) the stationing in Europe of United States military forces in support of NATO at the level of military personnel permanently stationed in Europe in support of NATO on the date of

the enactment of this Act plays an indispensable role for peace and deterrence; and

(B) the commitment of United States forces should be continued at that level (assuming all existing basing agreements remain in effect).

(2) It is further the sense of Congress that it would not be inconsistent with the sense of Congress expressed in paragraph (1) if the actual number of United States military personnel permanently stationed in Europe in support of NATO at any time falls below the level of such personnel on the date of the enactment of this Act because of administrative fluctuations or if such level is reduced following a determination by the President that national security considerations require such a reduction.

SEC. 1003. STUDY OF FUTURE OF NATO

The Secretary of Defense shall contribute, from funds appropriated for fiscal year 1988 for operation and maintenance of Defense Agencies, the amount of $50,000 to the North Atlantic Assembly for a study on the future of the North Atlantic Treaty Organization.

PART B—BURDEN SHARING

SEC. 1011. STUDY OF DEFENSE EXPENDITURES IN JAPAN

(a) IN GENERAL.—The Secretary of Defense shall conduct a study of the ways in which the United States may further its national security interests in the Far East.

(b) REPORT.—Within 90 days after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on such study. The report shall contain—

(1) the plans of the Department of Defense in the current five-year defense plan for defense expenditures for each fiscal year covered by the plan to be made in support of United States security interests in the Far East and, of such planned expenditures in each such fiscal year, how much is attributable to projected increases in defense outlays for that fiscal year;

(2) the projections for national defense expenditures by Japan for each such fiscal year;

(3) the projections for national defense expenditures by the United States directly in support of United States forces, facilities, and equipment stationed or located in Japan for each such fiscal year; and

(4) the projections for national defense expenditures by Japan directly in support of United States forces stationed in Japan for each such fiscal year.

SEC. 1012. SENSE OF CONGRESS REGARDING JAPAN'S CONTRIBUTIONS TO GLOBAL STABILITY

(a) FINDINGS.—The Congress makes the following findings:

(1) The alliance of the United States and Japan is the foundation for the security of Japan and peace in the Far East and is a major contributing factor to the democratic freedoms and economic prosperity enjoyed by both the United States and Japan.

(2) Threats to the security of both the United States and Japan have increased significantly since 1976, principally as the result of—

(A) the occupation of Afghanistan by the Soviet Union;

(B) the continued expansion and buildup of military forces of the Soviet Union (particularly the expansionist efforts by the Soviet Union in the South Pacific and the buildup of the Soviet Pacific fleet);

(C) the occupation of Cambodia by Vietnam; and

(D) instability in the Persian Gulf region (from which Japan receives 60 percent of its petroleum and one-third of its total energy requirements).

(3) In keeping with the declaration made at the 1983 meeting in Williamsburg, Virginia, of the leaders of the leading industrialized democracies that "the security of our countries is indivisible and must be approached on a global basis", the government of Japan—

(A) has raised its defense spending by an average of 5 percent per year since 1981;

(B) has rescinded a limit on annual expenditures for defense of 1 percent of the gross national product of Japan; and

(C) is fulfilling the pledge of Prime Minister Suzuki to defend the territory, airspace, and sea lanes of Japan to a distance of 1,000 miles by 1990.

(4) While recognizing and applauding the actions by the government of Japan referred to in paragraph (3), Congress notes that Japan has the second largest gross national product in the world, is a major creditor nation, and has a large private savings rate, but nevertheless lags far behind other industrialized democracies in terms of the percentage of its gross national product that it spends for national defense and programs to promote global security and stability.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the United States would welcome an initiative by Japan to assume a politically acceptable and significant global security role consistent with its economic status by taking the following actions:

(1) Increasing spending for its Official Development Assistance program and its defense programs so that, by 1992, the level of spending by Japan on those programs (stated as a percentage of gross national product) will approximate the average of the levels of spending by the member nations of the North Atlantic Treaty Organization on official development assistance and defense programs (stated as a percentage of their respective gross national products).

(2) Devoting increased spending for its Official Development Assistance program primarily to the Republic of the Philippines and regions of importance to global stability outside of East Asia, particularly Oceania, Latin America, and the Caribbean and Mediterranean nations.

(3) Devoting any increase in spending for that program primarily to concessional, untied grants and increasing the portion of total expenditures made for that program for those multilateral financial institutions of which Japan is a member.

(4) Designating those nations that are to be recipients of increased development assistance as described in paragraphs (1) through (3) through consultation with its security partners.

(5) Completing its five-year defense program for fiscal years 1986 through 1990 and, at the earliest possible date after the completion of that program, further enhancing the fulfillment of the pledge of Prime Minister Suzuki referred to in subsection (a)(3).

PART C—PROCUREMENT MATTERS

SEC. 1021.[14] OVERSEAS WORKLOAD PROGRAM

(a) IN GENERAL.—A firm of any member nation of the North Atlantic Treaty Organization (NATO) or of any major non-NATO ally shall be eligible to bid on any contract for the maintenance, repair, or overhaul of equipment of the Department of Defense to be awarded under competitive procedures as part of the program of the Department of Defense known as the Overseas Workload Program.

(b) SITE FOR PERFORMANCE OF WORK.—A contract awarded during fiscal year 1988 or 1989 to a firm described in subsection (a) may be performed in the theater in which the equipment is normally located or in the country in which the firm is located.

(c) EXCEPTIONS.—The Secretary of a military department may restrict the geographic region in which a contract referred to in subsection (a) may be performed if the Secretary determines that performance of the contract outside that specific region—

(1) could adversely affect the military preparedness of the Armed Forces of the United States; or

(2) would violate the terms of an international agreement to which the United States is a party.

(d) REPORT REQUIREMENT.—(1) Not later than December 1, 1988, the Secretary of Defense shall submit to Congress a report on the nature of the maintenance, repair, and overhaul work of the Department of Defense performed under the program of the Department of Defense known as the Overseas Workload Program.

(2) The report shall include the following:

(A) A description of the categories of work performed under that program and the costs associated with those categories of work.

(B) A description of the capabilities of facilities that United States firms have established in Europe to perform work under that program.

(C) A description of the capabilities to perform work under that program by firms in the United States, Canada, and countries that are major non-NATO allies of the United States.

(D) A description of the maintenance, repair, and overhaul work under that program that could be performed in the United States or Canada, or in a country that is a major non-NATO ally, on a cost-effective basis and without a significant adverse effect on the readiness of the Armed Forces of the United States.

[14] 10 U.S.C. 2341 note.

(E) A list and detailed explanation of each of the instances, through October 31, 1988, in which the Secretary of a military department exercised the authority provided in subsection (c).

(e) DEFINITION.—For purposes of this section, the term "major non-NATO ally" has the meaning given that term by section 1105(g)(1) of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99–661).[15]

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SEC. 1023. REPORT ON CO-PRODUCTION OR CO-ASSEMBLY OF M1A1 TANK

(a) IN GENERAL.—The Secretary of Defense shall submit to Congress a detailed report on any plans of the Department of Defense as of the time of the submission of the report regarding co-production or co-assembly of the M1 or M1A1 Abrams tank with a foreign country. The Secretary shall include in such report the following:

(1) The status of any current negotiations by the Secretary of Defense with any foreign country regarding the co-production or co-assembly of the M1 or M1A1 tank by the United States and that country.

(2) A comparison of the long-term effects on the United States mobilization base of production of such tank under a co-production or co-assembly arrangement with a foreign country.

(3) The effect an arrangement with a foreign country for the co-production or co-assembly of such tank would have on the national security of the United States.

(b) DEADLINE FOR REPORT.—The Secretary shall submit the report required under subsection (a) not later than 90 days after the date of the enactment of this Act.

(c) CLASSIFICATION OF REPORT.—The Secretary shall submit the report required under subsection (a) in both classified and unclassified form.

SEC. 1024. WEAPONS STORAGE AND SECURITY SYSTEMS

(a) LIMITATION ON INSTALLATION.—Funds appropriated or otherwise made available to the Department of Defense for fiscal years 1988 and 1989 may not be expended for installation of Weapons Storage and Security Systems (WSSS) in the territory of any European member nation of the North Atlantic Treaty Organization until the Secretary of Defense certifies to Congress that the construction program with respect to such systems is eligible for common financing under the NATO Infrastructure program.

(b) EFFECT OF INF TREATY.—If a treaty on Intermediate Range Nuclear Forces (INF) is ratified before the certification under subsection (a) is made, the Secretary shall submit with the certification a plan for revising the installation of those systems in order to reflect any additional requirements resulting from that treaty.[16]

(c) MILESTONES.—The Secretary shall submit with the certification under subsection (a) a description of the key milestones for entering into contracts under the program and for reaching an

[15] Sec. 1105(g)(1) of Public Law 99–661 defined "major non-NATO ally" as a country designated such by the Secretary of Defense with the concurrence of the Secretary of State.

[16] For text of INF treaty, ratified on June 1, 1988, see *Legislation on Foreign Relations*, vol. V, sec. F.

agreement concerning NATO financing and shall include a certification that all available steps are being taken to accelerate agreement with NATO on a final plan for recoupment of advance funding by the United States for the installation of such systems.

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TITLE XI—DEPARTMENT OF DEFENSE MANAGEMENT

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PART C—SECURITY AND COUNTERINTELLIGENCE MATTERS

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SEC. 1122.[17] * * * [Repealed—1993]

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TITLE XII—GENERAL PROVISIONS

PART C—MISCELLANEOUS REPORTS

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SEC. 1222. REPORT ON CONTINGENCY PLANS TO DEAL WITH DISRUPTIONS IN PERSIAN GULF CRUDE OIL SUPPLY

(a) REPORT REQUIREMENT.—(1) Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense and the Secretary of Energy shall submit to Congress a joint report on contingency plans of the Department of Defense and the Department of Energy for dealing with significant disruptions in the supply to the United States of crude oil produced by the nations of the Persian Gulf region. The report shall be prepared with the assistance of the Secretary of State.

(2) If the Secretary of Defense and the Secretary of Energy find it necessary to classify the report (or any portion of the report), a nonclassified version containing all energy policy recommendations made by the two Secretaries shall be transmitted with the report.

(b) MATTERS TO BE STUDIED.—In preparing the report required by this section, and any periodic update to that report, the Secretaries shall—

(1) ascertain the extent to which the Armed Forces of the United States, the civilian economy of the United States, and the nations of the free world (with specific reference to the NATO allies and to other strategic allies of the United States) currently depend on crude oil produced in the Persian Gulf region;

(2) prepare a range of estimates on the types of disruptions that could occur in the supply of crude oil from the Persian Gulf region and the effect of each such disruption (including duration) on reduced availability of crude oil supply from the oil producing nations of the Persian Gulf;

[17] Sec. 1122, repealed by sec. 502(f)(1) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2326), had required the Secretary of Defense to submit to Congress a report assessing Soviet electronic espionage capabilities from the Mount Alto embassy site.

(3) develop a range of plans for dealing with supply disruptions and shortages of crude oil from the Persian Gulf region, including—

(A) the role and use of existing domestic crude oil production, other non-Persian Gulf sources of the world supply of crude oil, and the Strategic Petroleum Reserve; and

(B) the use of any emergency power or authority provided for by existing law; and

(4) identify and review any bilateral or multilateral agreement (including the International Energy Agreement) which commits or obligates the United States to furnish crude oil or petroleum products to other nations.

(c) RECOMMENDATIONS.—The report under subsection (a) shall set forth the policy and legislative recommendations of the Secretaries for improving the ability of the United States to respond effectively to problems created by significant disruptions in the production, transportation, and supply of crude oil in the Persian Gulf region.

(d) COST ESTIMATES.—The report under subsection (a) shall include estimates of the total annual and per barrel cost of Persian Gulf crude oil to the world economy and to the United States economy.

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PART E—MISCELLANEOUS MATTERS

SEC. 1241.[18] GAO STUDY OF THE CAPABILITIES OF THE UNITED STATES TO CONTROL DRUG SMUGGLING INTO THE UNITED STATES

(a) STUDY REQUIREMENT.—The Comptroller General of the United States shall conduct a comprehensive study regarding smuggling of illegal drugs into the United States and the current capabilities of the United States to deter such smuggling. In carrying out such study, the Comptroller General shall—

(1) assess the national security implications of the smuggling of illegal drugs into the United States;

(2) assess the magnitude, nature, and operational impact that current resource limitations have on the drug smuggling interdiction efforts of Federal law enforcement agencies and the capability of the Department of Defense to respond to requests for assistance from those law enforcement agencies;

(3) assess the effect on military readiness, the costs that would be incurred, the operational effects on military and civilian agencies, the potential for improving drug interdiction operations, and the methods for implementing increased drug law enforcement assistance by the Department of Defense under section 825 of H.R. 1748 as passed the House of Representatives on May 20, 1987,[19] as if such section were enacted into law and were to become effective on January 1, 1988;

[18] 21 U.S.C. 801 note.
[19] H.R. 1748 provided, in part, the following:

Continued

(4) assess results of a cooperative drug enforcement operation between the United States Customs Service and National Guard units from the States of Arizona, Utah, Missouri, and Wisconsin conducted along the United States-Mexico border beginning on August 29, 1987, and include in the assessment information relating to the cost of conducting the operation, the personnel and equipment used in such operation, the command and control relationships in such operation, and the legal issues involved in such operation;

(5) determine whether giving the Armed Forces a more direct, active role in drug interdiction activities would enhance the morale and readiness of the Armed Forces;

(6) determine what assets are currently available to and under consideration for the Department of Defense, the Department of Transportation, the Department of Justice, and the Department of the Treasury for the detection of airborne drug smugglers;

(7) assess the current plan of the Customs Service for the coordinated use of such assets;

(8) determine the cost effectiveness and the capability of the Customs Service to use effectively the information generated by the systems employed by or planned for the Department of Defense, the Coast Guard, and the Customs Service, respectively, to detect airborne drug smugglers;

(9) determine the availability of current and anticipated tracking, pursuit, and apprehension resources to use the capabilities of such systems; and

(10) at a minimum, assess the detection capabilities of the Over-the-Horizon Backscatter radar (OTH–B), ROTHR, aerostats, airships, and the E–3A, E–2C, P–3, and P–3 Airborne Early Warning aircraft (including any variant of the P–3 Airborne Early Warning aircraft).

(b) REPORTS.—(1) Not later than April 30, 1988, the Comptroller General shall, as provided in paragraph (3), submit a report on the results of the study required by subsection (a) with respect to the elements of the study specified in paragraphs (1) through (5) of that subsection.

(2) As soon as practicable after the report under paragraph (1) is submitted, and not later than March 31, 1989, the Comptroller

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"SEC. 825. ENHANCED AUTHORITY OF MEMBERS OF THE ARMED FORCES IN DRUG INTERDICTION ACTIVITIES

"(a) IN GENERAL.—Section 374 of title 10, United States Code, is amended by adding at the end the following new subsection:

"'(e)(1) Subject to paragraph (2), the Secretary of Defense, upon request from the head of a Federal agency with jurisdiction to enforce the Controlled Substance Act (21 U.S.C. 801 et seq.) or the Controlled Substance Import and Export Act (21 U.S.C. 951 et seq.), may assign members of the armed forces under the Secretary's jurisdiction to assist drug enforcement officials of that agency in searches, seizures, and arrests outside the land area of the United States (or of any territory or possession of the United States) in connection with the enforcement of those Acts.

"'(2) Members may be assigned to provide assistance under paragraph (1) only if—

"'(A) the Attorney General certifies that there are insufficient law enforcement resources available to ensure the success of the operation;

"'(B) the assistance is approved by the Secretary of Defense with the concurrence of the Secretary of State; and

"'(C) Federal drug enforcement officials maintain control over the activities and direction of any drug enforcement operation.'".

The text of sec. 825, as it appeared in the House passed version on May, 20, 1987, was not retained when H.R. 1748 was enacted into law as Public Law 100–180.

General shall, as provided in paragraph (3), submit a report on the results of the study required by subsection (a) with respect to the elements of the study specified in paragraphs (6) through (10) of that subsection.

(3) The reports under paragraphs (1) and (2) shall be submitted to—

(A) the Committees on Armed Services, the Judiciary, Foreign Relations, and Appropriations of the Senate;

(B) the Committees on Armed Services, the Judiciary, Foreign Affairs, and Appropriations of the House of Representatives;[20]

(C) the members of the Senate Caucus on International Narcotics Control; and

(D) the Select Committee on Narcotics Abuse and Control of the House of Representatives.

(4) The reports under this subsection shall be submitted in both classified and unclassified forms and shall include such comments and recommendations as the Comptroller General considers appropriate.

SEC. 1242. TRANSFER OF FUNDS TO THE COAST GUARD

Of the amounts appropriated to the Department of Defense for fiscal years 1988 and 1989, the Secretary of Defense shall transfer to the Secretary of Transportation funds to assist in providing for the Law Enforcement Detachment program of the Coast Guard as follows:

(1) $3,000,000 from amounts appropriated for fiscal year 1988.

(2) $6,000,000 from amounts appropriated for fiscal year 1989.

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TITLE XIV—FOREIGN RELATIONS MATTERS

SEC. 1401. COMMENDATION OF ARMED FORCES IN PERSIAN GULF FOR SUCCESS OF CERTAIN OPERATIONS

(a) FINDINGS.—Congress makes the following findings:

(1) The Armed Forces of the United States are currently engaged in operations in the Persian Gulf, including operations to escort United States flag vessels moving through the Gulf, in order to protect national security interests of the United States and the principle of freedom of navigation in international waters.

(2) The government of Iran, through the use of its armed forces and revolutionary guards, is engaging in ongoing activities, including the laying of mines in international waters, to disrupt shipping in the Persian Gulf.

(3) During the night of September 21–22, 1987, Army and Naval forces of the United States detected an Iranian mine-

[20] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. Sec. 1(a)(5) of that Act provided that references to the Committee on Foreign Affairs shall be treated as referring to the Committee on International Relations. The Committee on National Security subsequently returned to the name "Committee on Armed Services"; see sec. 1067 of Public Law 106–65 (113 Stat. 774).

laying activity underway in international waters in the Persian Gulf and, in an outstanding instance of joint military operations, tracked and neutralized the boat carrying out the mine laying.

(4) On October 8, 1987, elements of the Armed Forces of the United States, acting jointly, successfully defended themselves against an attack by Iranian forces in the Persian Gulf.

(5) The success of those joint operations (A) serves notice to Iran that the United States will react decisively and effectively to such hostile activities, and (B) may result in reduced risk to United States interests in the Persian Gulf.

(6) There is precedent throughout the history of the United States for Congress to recognize and commend similar operations by the Armed Forces of the United States, including Congressional praise on February 3, 1802, of "the gallant conduct" of certain members of a United States Naval force in the Wars with the Barbary Powers.

(b) CONGRESSIONAL COMMENDATIONS.—The Congress hereby—

(1) declares that those members of the Armed Forces who participated in the joint operations of September 21–22, 1987, and October 8, 1987, in the Persian Gulf acted in the finest military and naval traditions of the United States and displayed exemplary professionalism, skill, and dedication; and

(2) commends those members, and all members of the Armed Forces who acted in support of those operations, for their participation in those important and successful operations.

SEC. 1402. SENSE OF THE SENATE REGARDING JUSTIFICATION FOR SINKING IRANIAN VESSELS

It is the sense of the Senate that the Armed Forces of the United States are fully justified in sinking any Iranian vessel which threatens the safe passage of (1) any warship of the United States, or (2) any other vessel known to have on board any citizen of the United States. This section shall not in itself be construed as legislative authority for any specific military operation.

SEC. 1403. UNITED STATES POLICY TOWARD PANAMA

(a) FINDINGS.—The Congress makes the following findings:

(1) The executive, judicial, and legislative branches of the Government of Panama are now under the influence and control of the Panamanian Defense Forces.

(2) A broad coalition of church, business, labor, civic, and political groups in Panama has called for an objective and thorough investigation of allegations concerning serious violations of law by certain officials of the Government of Panama and the Panamanian Defense Forces and has insisted that General Noriega and others involved relinquish their official positions until such an investigation has been completed.

(3) The Panamanian people continue to be denied the full rights and protections guaranteed by their constitution, as evidenced by continuing censorship and the closure of the independent media, arrests without due process, and instances of the use of excessive force by the Panamanian Defense Forces.

(4) Political unrest and social turmoil in Panama can only be resolved if the Government of Panama begins to demonstrate

respect for and adherence to all provisions of the Panamanian constitution.

(b) POLICY.—Therefore, it is the sense of Congress that, subject to the condition expressed in subsection (c), the United States should take the following actions:

(1) Cease all economic and military assistance provided to the Government of Panama under the Foreign Assistance Act of 1961 and the Arms Export Control Act, other than assistance to meet immediate humanitarian concerns.

(2) Suspend all shipments of military equipment (including spare parts for military equipment) to the Government of Panama or to any of its agencies or institutions.

(3) Reassess whether the United States should terminate the importation into the United States of sugar, syrup, and molasses produced in Panama and reallocate among other foreign countries the quantities of such products that otherwise would be imported from Panama.

(c) CONDITIONS.—It is further the sense of Congress that the United States should take the actions described in subsection (b) unless, within 45 days after the date of the enactment of this Act—

(1) the Government of Panama has demonstrated substantial progress in the effort to assure civilian control of the armed forces and that the Panama Defense Forces and its leaders have been removed from nonmilitary activities and institutions;

(2) the Government of Panama has established an independent investigation into allegations of illegal actions by members of the Panama Defense Forces;

(3) a nonmilitary transitional government is in power; and

(4) all constitutional guarantees, including freedom of the press, have been restored to the people of Panama.

SEC. 1404. CONGRESSIONAL STATEMENTS CONCERNING VIETNAMESE OCCUPATION OF CAMBODIA AND JAPANESE TRADE WITH VIETNAM

(a) FINDINGS.—The Congress finds that—

(1) during the nine years since Vietnam invaded Cambodia in late 1978, most Western countries have pledged to maintain an embargo on trade with and developmental aid to Vietnam until Vietnamese troops are withdrawn from Cambodia;

(2) Japan joined in this embargo by freezing approximately $135,000,000 in grants and concessionary loans to Vietnam and reducing trade levels with Vietnam from $220,000,000 in 1978 to $120,000,000 the following year;

(3) despite the fact that 140,000 Vietnamese troops continue to occupy Cambodia, Japan's economic ties with Vietnam have grown steadily since 1982, reaching a current annual trade level of $230,000,000;

(4) this trade has included trade in goods and technology which enhances the productive capacity and the infrastructure base of Vietnam; and

(5) the 65,000,000 people of Vietnam are a tempting lure for investors seeking low wages and for traders seeking new markets.

(b) CONDEMNATION OF VIETNAMESE OCCUPATION OF CAMBODIA.—The Congress hereby—

(1) reaffirms its condemnation of the continued Vietnamese occupation of the sovereign State of Cambodia, an activity which violates all standards of conduct befitting a responsible nation and contravenes all recognized principles of international law; and

(2) reaffirms its call for Vietnam to withdraw from Cambodia as the only way Vietnam can expect to end its self-induced economic isolation.

(c) STATEMENT ON JAPANESE TRADE WITH VIETNAM.—The Congress hereby strongly urges the Government of Japan to—

(1) continue to refrain from granting to Vietnam any official economic assistance;

(2) refrain from granting to Vietnam any form of trade financing, including export credits, trade-related credit insurance, and extended loans for infrastructure development;

(3) continue to discourage its private business sector from exporting to Vietnam goods and technology which enhance the productive capacity and the infrastructure base of Vietnam, including in particular equipment for—

(A) oil exploration and development,

(B) forestry and fishery production,

(C) development of raw materials for light industries, and

(D) the upgrading of export productive capacities; and

(4) strongly discourage the private business sector of Japan from providing financing which in any way facilitates trade with Vietnam.

SEC. 1405. SENSE OF CONGRESS ON INTRODUCTION OF ARMED FORCES INTO NICARAGUA FOR COMBAT

Congress hereby reaffirms the sense of Congress expressed in the first session of the 99th Congress (in section 1451 of the Department of Defense Authorization Act, 1986 (Public Law 99–145; 99 Stat. 760)), that United States Armed Forces should not be introduced into or over Nicaragua for combat. However, nothing in this section shall be construed as affecting the authority and responsibility of the President or Congress under the Constitution, statutes, or treaties of the United States in force.

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aa. National Defense Authorization Act for Fiscal Year 1987

Partial text of Public Law 99–661 [S. 2638], 100 Stat. 3816, approved November 14, 1986; as amended by Public Law 100–456 [National Defense Authorization Act, Fiscal Year 1989; H.R. 4481], 102 Stat. 1918, approved September 29, 1988; Public Law 101–189 [National Defense Authorization Act for Fiscal Years 1990 and 1991; H.R. 2461], 103 Stat. 1352, approved November 29, 1989; Public Law 103–199 [FRIENDSHIP Act; H.R. 3000], 107 Stat. 2317, approved December 17, 1993; Public Law 104–106 [National Defense Authorization Act for Fiscal Year 1996; S. 1124], 110 Stat. 186, approved February 10, 1996; and by Public Law 105–261 [Strom Thurmond National Defense Authorization Act for Fiscal Year 1999; H.R. 3616], 112 Stat. 1920, approved October 17, 1998

AN ACT To authorize appropriations for fiscal year 1987 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, to improve the defense acquisition process, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of American in Congress assembled,

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TITLE I—PROCUREMENT

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PART A—FUNDING AUTHORIZATIONS

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SEC. 106. EXTENSION OF CERTAIN AUTHORITY PROVIDED THE SECRETARY OF DEFENSE IN CONNECTION WITH THE NATO AIRBORNE WARNING AND CONTROL SYSTEM (AWACS) PROGRAM

Effective on October 1, 1986, section 103(a) of the Department of Defense Authorization Act, 1982 (Public Law 97–86; 95 Stat. 1100), is amended by striking out "fiscal year 1986" both places it appears and inserting in lieu thereof "fiscal year 1987".

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TITLE II—RESEARCH, DEVELOPMENT, TEXT AND EVALUATION

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PART B—STRATEGIC DEFENSE INITIATIVE

SEC. 211. FISCAL YEAR 1987 FUNDING LEVEL FOR STRATEGIC DEFENSE INITIATIVE

Of the amount authorized in section 201 for research, development, test, and evaluation for the Defense Agencies, not more than $3,213,000,000 is available for the Strategic Defense Initiative (SDI) Program.

SEC. 212. JOINT DEVELOPMENT OF ANTITACTICAL BALLISTIC MISSILE SYSTEM

Of the funds available for the Strategic Defense Initiative under section 211, not more than $50,000,000 shall be available for the joint development, on a matching fund basis, of an anti-tactical ballistic missile system for deployment with NATO allies and other countries that the United States has invited to participate in the Strategic Defense Initiative Program.

SEC. 213.[1] LIMITATION ON ESTABLISHMENT OF A FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTER FOR THE STRATEGIC DEFENSE INITIATIVE PROGRAM

(a) LIMITATION.—The Secretary of Defense may not obligate or expend any funds for the purpose of operating a Federally funded research and development center that is established for the support of the Strategic Defense Initiative Program after the date of the enactment of this Act unless—

(1) the Secretary submits to the Committees on Armed Services of the Senate and House of Representatives[2] a report with respect to such proposed center that provides the information described in subsection (b); and

(2) funds are specifically authorized to be appropriated for such purpose after the date of the enactment of this Act in and Act other than—

(A) an appropriations Act; or

(B) a continuing resolution.

(b) CONTENT OF REPORT.—A report submitted under subsection (a)(1) with respect to a proposed center shall include a discussion of—

(1) the ability of existing Federally funded research and development centers, Federal research laboratories, and private contractors to perform the objectives of technological integration and evaluation required by the Strategic Defense Initiative Organization;

(2) the comparative cost of having the proposed work performed by—

(A) the Strategic Defense Initiative Organization;

(B) Federally funded research and development centers in existence on the date of the enactment of this Act;

(C) by Federal research laboratories; or

(D) by private research laboratories;

(E) by such center;

(3) whether such center is intended to be—

(A) primarily a study and analysis center; or

(B) primarily a system engineering/system integration center;

(4) whether such center will be required or authorized to enter into contracts under which research projects would be

[1] 10 U.S.C. 2431 note.

[2] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. The Committee on National Security subsequently returned to the name "Committee on Armed Services"; see sec. 1067 of Public Law 106–65 (113 Stat. 774).

performed by other Federally funded research and development centers, Federal research laboratories, or private contractors;

(5) whether the contract to operate such center will be awarded on a competitive basis;

(6) whether proposals with respect to the operation of such center—

(A) will be considered by the appropriate Defense Agency; and

(B) will be subjected to review by persons to be elected by the National Academy of Sciences;

(7) whether such center will be designed to prevent even the possibility of an appearance of conflict of interest—

(A) by prohibiting any officer, employee, or member of the governing body of such center from holding any position with—

(i) the Strategic Defense Initiative Organization; or

(ii) a private contractor that has a substantial interest in the development of the Strategic Defense Initiative; and

(B) by prohibiting more than one-half of the members of the governing body of the proposed Federally Funded Research Center from simultaneously holding any position with the Strategic Defense Initiative Advisory Committee or any similar body which provides technologies, scientific, or strategic advice to the Department of Defense about the Strategic Defense Initiative;

(8) whether other actions will be taken to avoid possible conflict of interest situations within such center;

(9) the role of the Department of Defense in—

(A) the selection of the staff of such center; and

(B) the internal organization of such center; and

(10) whether a prescribed minimum percentage of the annual budget of such center will be set aside for research to be conducted independently of the Department of Defense.

(c) COMPTROLLER GENERAL REPORT.—The Comptroller General of the United States shall also submit a report to Congress providing an analysis of the items in subsection (b) as appropriate.

SEC. 214.[3] REPORT ON PROJECTED COSTS OF SDI PROGRAM * * *

SEC. 215.[4] REPORT ON STRATEGIC DEFENSE INITIATIVE DEPLOYMENT SCHEDULE * * * [Repealed—1987]

SEC. 216. EFFECT OF STRATEGIC DEFENSE INITIATIVE ON COMPLIANCE WITH THE ANTI-BALLISTIC MISSILE TREATY

(a) FINDINGS.—The Congress makes the following findings:

(1) The President's Commission on Strategic Forces declared in its report to the President, dated March 21, 1984, that "One of the most successful arms control agreements is the Anti-Ballistic Missile Treaty of 1972".

[3] Sec. 214 amended sec. 223(b) of the Department of Defense Authorization Act, 1986 (Public Law 99–145; 99 Stat. 613).

[4] Sec. 215 was repealed by sec. 231 of Public Law 100–180 (101 Stat. 1019).

(2) The Secretary of State has stated that the "ABM Treaty requires consultations and the President has explicitly recognized that any ABM-related deployments arising from research into ballistic missile defenses would be a matter for consultations and negotiations between the Parties".

(3) The Secretary of State declared on October 14, 1985, that "our research program has been structured and, as the President has reaffirmed, will continue to be conducted in accordance with a restrictive interpretation of the treaty's obligations".

(4) The President has determined that the Krasnoyarsk rather is a violation of the ABM Treaty.

(5) The Krasnoyarsk radar therefore erodes the integrity of the ABM Treaty and is a matter of serious concern.

(b) CONGRESSIONAL DECLARATIONS.—The Congress therefore declares—

(1) that it fully supports the declared policy of the President that a principal objective of the United States in negotiations with the Soviet Union on nuclear and space arms is to reverse the erosion of the Treaty between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, signed on May 26, 1972 (commonly referred to as the "ABM Treaty"); and

(2) that action by the Congress in approving funds in this Act for research on the Strategic Defense Initiative—

(A) does not express or imply an intention on the part of Congress that the United States should abrogate, violate, or otherwise erode such treaty; and

(B) does not express or imply any determination or commitment on the part of Congress that the United States develop, test, or deploy ballistic missile strategic defense weaponry that would contravene such treaty.

SEC. 217. REPORT ON THE ANTI-BALLISTIC MISSILE TREATY

(a) REPORT ON LESS RESTRICTIVE INTERPRETATION.—The Secretary of Defense shall submit to Congress a report concerning the effect of the less restrictive interpretation of the Anti-Ballistic Missile Treaty on the Strategic Defense Initiative program.

(b) MATTERS TO BE INCLUDED.—The report shall include the following:

(1) An analysis of the ramifications of the less restrictive interpretation on the development under the Strategic Defense Initiative Program, of strategic defenses, including comprehensive strategic defense systems, and more limited defenses designed to protect vital United States military and command and control assets, based on "other physical principles". This analysis should compare research and development programs pursued under both the restrictive and less restrictive interpretations of such treaty including a comparative analysis of—

(A) the overall cost of the research and development programs.

(B) the schedule of the research and development programs, and

(C) the level of confidence attained in the research and development programs with respect to supporting a full-scale engineering development decision in the early 1990's.

(2) A list of options under the less restrictive interpretation of such treaty that meet one or more of the following objectives:

(A) Reduction of the overall development cost.

(B) Advancement of the schedule for a full-scale engineering development decision.

(C) Increase in the level of confidence in the results of the research by the original full-scale development date.

(c) DEADLINE FOR REPORT.—The report under subsection (a) shall be submitted not later than February 1, 1987.

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TITLE III—OPERATION AND MAINTENANCE

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PART B—PROGRAM CHANGES AND PERMANENT LAW CHANGES

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SEC. 316.[5] PROHIBITION OF PURCHASE OF ANGOLAN PETROLEUM PRODUCTS FROM COMPANIES PRODUCING OIL IN ANGOLA

(a) GENERAL RULE.—The Secretary of Defense may not enter into a contract with a company for the purchase of petroleum products which originated in Angola if the company (or a subsidiary or partnership of the company) is engaged in the production of petroleum products in Angola.

(b) WAIVER AUTHORITY.—The Secretary of Defense may waive the limitation in subsection (a) if the Secretary determines that such action is in the best interest of the United States.

(c) PETROLEUM PRODUCT DEFINED.—For purposes of this section, the term "petroleum product" means—

(1) natural or synthetic crude;

(2) blends of natural or synthetic crude; and

(3) products refined or derived from natural or synthetic crude or form such blends.

(d) EFFECTIVE DATE.—This section shall take effect six months after the date of the enactment of this Act.

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[5] 10 U.S.C. 2304 note. Sec. 842 of Public Law 102–484 (106 Stat. 2468) provided the following termination:

"SEC. 842. PURCHASE OF ANGOLAN PETROLEUM PRODUCTS.

"The prohibition in section 316 of the National Defense Authorization Act for Fiscal Year 1987 (100 Stat. 3855; 10 U.S.C. 2304 note) shall cease to be effective on the date on which the President certifies to Congress that free, fair, and democratic elections have taken place in Angola.".

PART C—HUMANITARIAN AND OTHER ASSISTANCE

SEC. 331. EXTENSION OF AUTHORIZATION FOR HUMANITARIAN ASSISTANCE

(a)[6] TRANSPORTATION, ADMINISTRATION, AND DISTRIBUTION OF HUMANITARIAN RELIEF SUPPLIES TO AFGHAN REFUGEES. * * *

(b) REPORTS.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives[7] two reports, one of which shall be submitted not later than 60 days after the date of the enactment of this Act and the other not later than June 1, 1987. Each such report shall contain (as of the date on which the report is submitted) the following information:

(1) The total amount of funds obligated for humanitarian relief under section 305 of the Department of Defense Authorization Act, 1986 (Public Law 99–145; 99 Stat. 617) (as amended by subsection (a)).[6]

(2) the number of scheduled and completed flights for purposes of providing humanitarian relief under section 305 of such Act.

(3) A description of any transfer (including to whom the transfer is made) of excess nonlethal supplies of the Department of Defense made available for humanitarian relief purposes under section 2547 of title 10, United States Code.

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TITLE IX—PROCUREMENT POLICY REFORM

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SEC. 951.[8] CONTRACTING WITH FIRMS OWNED OR CONTROLLED BY GOVERNMENTS THAT SUPPORT TERRORISM. * * *

TITLE X—ARMS CONTROL MATTERS[9]

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TITLE XI—MATTERS RELATING TO NATO AND OTHER ALLIES

SEC. 1101.[10] MODERNIZATION OF DEFENSE CAPABILITIES OF COUNTRIES OF NATO'S SOUTHERN FLANK * * *

SEC. 1102.[11] NATO COOPERATIVE LOGISTIC SUPPORT AGREEMENTS * * * [Repealed —1989]

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[6] Sec. 331(a) amended sec. 305 of the Department of Defense Authorization Act, 1986 (Public Law 99–145; 99 Stat. 617).

[7] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. The Committee on National Security subsequently returned to the name "Committee on Armed Services"; see sec. 1067 of Public Law 106–65 (113 Stat. 774).

[8] Sec. 951 added 10 U.S.C. 2327. See 10 U.S.C., this volume.

[9] For text, see *Legislation on Foreign Relations Through 2004*, vol. II, sec. F.

[10] Sec. 1101 amended chapter 2 of part II of the Foreign Assistance Act of 1961, by adding a new section 516. For text, see *Legislation on Foreign Relations Through 2004*, vol. I–A.

[11] Sec. 931 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1531) codified several sections of title 10 relating to cooperative agreements with NATO and other countries (see secs. 2350a–f), and repealed secs. 1102 and 1105.

SEC. 1105.[10] **COOPERATIVE RESEARCH AND DEVELOPMENT WITH MAJOR NON-NATO ALLIES** * * * [Repealed—1989]

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TITLE XIII—GENERAL PROVISIONS

PART A—FINANCIAL MATTERS

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SEC. 1303. AUTHORIZATION OF APPROPRIATIONS FOR FOREIGN CURRENCY PURCHASES

There is hereby authorized to be appropriated for fiscal year 1987 the amount of $3,500,000 for the purchase of foreign currencies from the Treasury Department to pay expenses incurred in carrying out programs of the Department of Defense.

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PART F—MISCELLANEOUS

SEC. 1351.[12] **LIMITATION ON SOURCE OF FUNDS FOR NICARAGUAN DEMOCRATIC RESISTANCE**

Notwithstanding title II of the Military Construction Appropriations Act, 1987, or any other provision of law, funds appropriated or otherwise made available to the Department of Defense for any fiscal year for operation and maintenance may not be used to provide assistance for the democratic resistance forces in Nicaragua. If funds appropriated or otherwise made available to the Department of Defense for any fiscal year are authorized by law to be used for such assistance, funds for such purpose may only be derived from amounts appropriated or otherwise made available to the Department for procurement (other than ammunition).

SEC. 1352. BUDGET ACCOUNTING FOR NEW SPACE SHUTTLE

Funds appropriated for the procurement of a shuttle orbiter by the National Aeronautics and Space Administration to replace the Challenger space shuttle orbiter may not be charged by any official of the executive or legislative branch against major budget function category 050 (National Defense).

SEC. 1353. PROMPT REPORTING OF INTELLIGENCE ON TERRORIST THREATS

(a) IN GENERAL.—(1) Subject to subsection (b), the Secretary of Defense shall instruct all appropriate officials of the Department of Defense to take such action as may be necessary to ensure that all credible, time-sensitive intelligence received by or otherwise available to United States officials concerning potential terrorist threats to—

(A) United States citizens or facilities (including citizens and facilities overseas); or

(B) any other potential target for terrorist activities designated by the Secretary,

[12] 10 U.S.C. 114 note. Sec. 1063(a) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 444) struck out subsec. (b), which had required the Secretary of Defense to report to Congress on the source of funds used for this section, and struck out "(a) LIMITATION.—" preceding "Notwithstanding".

is reported promptly to the headquarters or office of the Department of Defense concerned.

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SEC. 1364.[13] FOREIGN ESPIONAGE ACTIVITIES IN THE UNITED STATES

The Congress declares that it is the policy of the United States to impose appropriate restrictions (including travel restrictions) on the official representatives of any foreign country, as well upon the nationals of such country who are employed by international organizations, when the President determines that a pattern of abuses by that nation exists.

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SEC. 1368. SENSE OF CONGRESS REGARDING THE DEATH OF LIEUTENANT COLONEL ARTHUR D. NICHOLSON, JUNIOR

(a) FINDINGS.—The Congress finds the following:

(1) On March 24, 1985, Lieutenant Colonel Arthur D. Nicholson, Junior, of the United States Army (then holding the grade of major) was carrying out his official duties as a liaison officer of the United States Military Liaison Mission.

(2) On that date, Lieutenant Colonel Nicholson was performing his duties in uniform and in an open and direct manner, according to orders, and was conducting himself in a way which was neither provocative nor beyond the limits of proper conduct for members of the United States Military Liaison Mission, and which was well understood and accepted by the Soviet Union.

(3) On that date, a member or members of the armed forces of the Soviet Union shot and fatally wounded Lieutenant Colonel Nicholson without warning and without provocation.

(4) After having shot Lieutenant Colonel Nicholson, members of the armed forces of the Soviet Union forcibly restrained Lieutenant Colonel Nicholson's aide and prevented him from providing medical assistance to Lieutenant Colonel Nicholson, so that Lieutenant Colonel Nicholson died slowly and with great suffering, which death and suffering might have been prevented had Lieutenant Colonel Nicholson been permitted to receive assistance.

(5) The death of Lieutenant Colonel Nicholson was an untimely, unnecessary, cold-blooded murder committed against a United States military officer in pursuit of his official duties by a member or members of the armed forces of the Soviet Union, in a painful and degrading manner.

(b) SENSE OF CONGRESS.—The Congress deplores and condemns the cold-blooded murder of Lieutenant Colonel Arthur D. Nicholson, Junior. It is the sense of Congress that the Government of the Soviet Union should—

(1) apologize for and renounce the murder of Lieutenant Colonel Nicholson; and

[13] Sec. 502(h) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2327) repealed subsecs. (a) and (c) of this section, relating to espionage activities of the Soviet Union, and struck subsec. designation "(b) CONGRESSIONAL POLICY.—" before the remaining text.

(2) indemnify the family of Lieutenant Colonel Nicholson financially.

* * * * * * *

SEC. 1371. NUCLEAR WINTER STUDY AND REPORT

(a) STUDY.—The Secretary of Defense shall conduct a comprehensive study on the atmospheric, climatic, biological, health, and environmental consequences of nuclear explosions and nuclear exchanges and the implications that such consequences have for the nuclear weapons, arms control, and civil defense policies of the United States.

(b) REPORT.—Not later than November 1, 1987, the Secretary shall submit to the President and the Congress an unclassified report suitable for release to the public, with classified addenda if necessary, on the study conducted under subsection (a). The report shall contain the following:

(1) A detailed review and assessment of the findings in the current body of domestic and international scientific literature on the atmospheric, climatic, biological, health, and environmental consequences of nuclear explosions and nuclear exchanges.

(2) A thorough evaluation of the implications that such findings have on—

(A) the nuclear weapons policy of the United States, especially with regard to strategy, targeting, planning, command, control, procurement, and deployment;

(B) the nuclear arms control policy of the United States; and

(C) the civil defense policy of the United States.

(3) A discussion of the manner in which the results of such evaluation of policy implications will be incorporated into the nuclear weapons, arms control, and civil defense policies of the United States.

(4) An analysis of the extent to which current scientific findings on the consequences of nuclear explosions are being studied, disseminated, and used in the Soviet Union.

(5) A plan for a five-year research program to advance understanding of nuclear winter and an estimate of the funding necessary to carry out such a research program.

(c) EVALUATION OF REPORT.—Upon submission of the report under subsection (b), the Secretary shall contract with the National Academy of Sciences to—

(1) make an independent evaluation of the material contained in the report; and

(2) not later than April 1, 1988, submit a report to the Secretary of Defense and to the Committees on Armed Services of the Senate and of the House of Representatives,[14] setting forth

[14] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. The Committee on National Security subsequently returned to the name "Committee on Armed Services"; see sec. 1067 of Public Law 106–65 (113 Stat. 774).

the results of the evaluation and may recommendations pertaining to the contents of the report, including the plan for the five-year research program.

* * * * * * *

SEC. 1373. DRUG INTERDICTION

(a) COMPREHENSIVE PROGRAM.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a comprehensive program designed to interdict aircraft, vessels, and vehicles carrying illegal drugs into the United States. The program shall include the following:

(1) A clear division of authority in drug interdiction and drug enforcement efforts among all Federal law enforcement agencies involved in those efforts and a mechanism which will insure maximum coordination and cooperation among those agencies.

(2) Designation of a lead agency principally responsible for each of the following areas: marine and air drug interdiction beyond the borders of the United States; domestic and border drug interdiction efforts; and domestic and foreign drug law enforcement efforts.

(3) A requirement that such lead agency shall be advised where possible in advance of activities by any other agency in its area of responsibility and that, upon objection by the lead agency, the matter shall be referred to the National Drug Enforcement Policy Board for resolution.

(4) A comprehensive plan to enhance the capabilities, manpower and equipment of the United States Coast Guard by the end of fiscal year 1989 in order to substantially increase the role of the Coast Guard in drug interdiction and enforcement efforts. Such plan shall specify requirements for command and control between the Coast Guard and the Department of Defense and civilian drug law enforcement and interdiction agencies.

(5) A comprehensive plan to maximize, to the extent it does not adversely affect military preparedness and consistent with the provisions of chapter 18 of title 10, United States Code, assistance by the Department of Defense to other agencies in the drug enforcement and interdiction effort.

(6) A requirement that maximum use be made of existing Department of Defense and Coast Guard command and control networks as well as other available military resources, including equipment, intelligence, and training capabilities.

(b) REPORT—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report discussing the following:

(1) Recommendations for amendments to chapter 18 of title 10, United States Code, to allow more efficient use of the Armed Forces in combating illegal drug trafficking.

(2) The legal consequences of amending chapter 18 of title 10, United States Code, to permit the direct participation of members of the Armed Forces in the interdiction of vessels or aircraft, search and seizure, arrest, or other similar activity in the assistance of civilian law enforcement officials.

(3) The amount of training, the cost of training, and the number of military personnel required to effectuate the changes referred to in paragraph (2).

(4) The effect on military preparedness of a drug interdiction program that would require the Armed Forces to halt the unlawful penetration of the United States borders by aircraft and vessels carrying narcotics and that would use military personnel to locate, pursue, and seize such vessels and aircraft and to arrest their crews.

(5) The costs in the areas of procurement, operation and maintenance, and personnel which would be necessary to restore military preparedness to the level existing before commencement of the program described in paragraph (4).

(6) The cost and number of aircraft, vessels, and personnel needed to seal the borders of the United States, including Alaska and Hawaii, to interdict the unlawful penetration of aircraft, vessels, and ground traffic carrying narcotics.

(7) The cost and number of aircraft and personnel needed to provide continuous aerial radar coverage of the United States in order to interdict the unlawful penetration of aircraft carrying narcotics.

(8) The cost and number of rotor wing and fixed wing aircraft needed to pursue and seize intruding aircraft detected by the radar coverage referred to in paragraph (7) including a plan for the deployment of such rotor wing and fixed wing aircraft.

(9) The effect of carrying out the program referred to in paragraph (4) of the United States' ability to meet its defense responsibilities, particularly to members of the North Atlantic Treaty Organization, Japan, Korea, and Australia.

* * * * * * *

bb. Department of Defense Authorization Act, 1986

Partial text of Public Law 99–145 [S. 1160], 99 Stat. 583, approved November 8, 1985; as amended by Public Law 99–190 [Further Continuing Appropriations, 1985; H.J. Res. 465]; 99 Stat. 1185, approved December 19, 1985; Public Law 99–661 [National Defense Authorization Act, Fiscal Year 1987; S. 2638], 100 Stat. 3816, approved November 14, 1986; Public Law 100–456 [National Defense Authorization Act, Fiscal Year 1989; H.R. 4481], 102 Stat. 1918, approved September 29, 1988; Public Law 101–189 [National Defense Authorization Act for Fiscal Years 1990 and 1991; H.R. 2461], 103 Stat. 1352, approved November 29, 1989; Public Law 101–510 [National Defense Authorization Act for Fiscal Year 1991, H.R. 4739], 104 Stat. 1704, approved November 5, 1990; Public Law 102–190 [National Defense Authorization Act for Fiscal Years 1992 and 1993, H.R. 2100], 105 Stat. 1290, approved December 5, 1991; Public Law 102–484 [National Defense Authorization Act for Fiscal Year 1993; H.R. 5006], 106 Stat. 2315, approved October 23, 1992; Public Law 103–160 [National Defense Authorization Act for Fiscal Year 1994; H.R. 2401], 107 Stat. 1547, approved November 30, 1993; Public Law 103–199 [FRIENDSHIP ACT; H.R. 3000], 107 Stat. 2317, approved December 17, 1993; Public Law 103–337 [National Defense Authorization Act for Fiscal Year 1995; S. 2182], 108 Stat. 2663, approved October 5, 1994; Public Law 104–106 [National Defense Authorization Act for Fiscal Year 1996; S. 1124], 110 Stat. 186, approved February 10, 1996; Public Law 105–85 [National Defense Authorization Act for Fiscal Year 1998; H.R. 1119], 111 Stat. 1629, approved November 18, 1997; Public Law 105–261 [Strom Thurmond National Defense Authorization Act for Fiscal Year 1999; H.R. 3616], 112 Stat. 1920, approved October 17, 1998; Public Law 106–65 [National Defense Authorization Act for Fiscal Year 2000; S. 1059], 113 Stat. 512, approved October 5, 1999; Public Law 108–375 [Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005; H.R. 4200], 118 Stat. 1811, approved October 28, 2004

AN ACT To authorize appropriations for military functions of the Department of Defense and to prescribe military personnel levels for the Department of Defense for fiscal year 1986, to revise and improve military compensation programs, to improve defense procurement procedures, to authorize appropriations for fiscal year 1986 for national security programs of the Department of Energy, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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TITLE I—PROCUREMENT

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PART A—FUNDING AUTHORIZATIONS

* * * * * * *

SEC. 106. NATO COOPERATIVE PROGRAMS

(a) AUTHORIZATION OF APPROPRIATIONS FOR COOPERATIVE DEFENSE PROGRAMS.—(1) There is hereby authorized to be appropriated to the Secretary of Defense for fiscal year 1986 the amount of $75,000,000 for North Atlantic Treaty Organization cooperative defense programs as follows:

For acquisition of point air defense of United States airbases in the Federal Republic of Germany, $30,000,000.

For acquisition of point air defense of United States airbases and other critical United States military facilities in Italy, $15,000,000.

For acquisition of point air defense and port defense for facilities in Belgium, $15,000,000.

For acquisition of point air defense of United States airbases in Turkey, $15,000,000.

(2) None of the amounts appropriated pursuant to the authorizations in paragraph (1) may be obligated [1] for acquisitions in connection with a NATO cooperative defense program in which the financial obligations of the United States exceed the collective financial obligations of European countries in connection with such program.

(b) EXTENSION OF AUTHORITY PROVIDED SECRETARY OF DEFENSE IN CONNECTION WITH THE NATO AWACS PROGRAM.—Effective on October 1, 1985, section 103(a) of the Department of Defense Authorization Act, 1982 (Public Law 97–86; 95 Stat. 1100), is amended by striking out "fiscal year 1985" both places it appears and inserting in lieu thereof "fiscal year 1986".

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PART B—STRATEGIC DEFENSE INITIATIVE

SEC. 221. FUNDING FOR FISCAL YEAR 1986

Of the amount authorized in section 201 for the Defense Agencies, $2,750,000,000 is available for the Strategic Defense Initiative, of which $12,500,000 is available only for the medical application of free-electron lasers and associated material and physical science research.

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[1] Sec. 1302(e) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1669) struck out para. designations (A) and (B) here and accompanying text, including:

"(A) for implementation of a cooperative program until the Secretary of Defense submits to the Committees on Armed Services of the Senate and House of Representatives a copy of each government-to-government agreement relating to that program; or".

[2] Formerly at 10 U.S.C. 139 note. Sec. 253(1) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 234) repealed sec. 222, which had provided as follows:

"SEC. 222. REQUIREMENT FOR SPECIFIC AUTHORIZATION FOR DEPLOYMENT OF STRATEGIC DEFENSE INITIATIVE SYSTEM

"A strategic defense system developed as a consequence of research, development, test, and evaluation conducted on the Strategic Defense Initiative program may not be deployed in whole or in part unless—

"(1) the President determines and certifies to Congress in writing that—

"(A) the system is survivable (that is, the system is able to maintain a sufficient degree of effectiveness to fulfill its mission, even in the face of determined attacks against it); and

"(B) the system is cost effective at the margin to the extent that the system is able to maintain its effectiveness against the offense at less cost than it would take to develop offensive countermeasures and proliferate the ballistic missiles necessary to overcome it; and

"(2) funding for the deployment of such system has been specifically authorized by legislation enacted after the date on which the President makes the certification to Congress.".

SEC. 222.[2] * * * [Repealed—1996]

SEC. 223. REPORTS ON STRATEGIC DEFENSE INITIATIVE

(a) REPORT ON POTENTIAL RESPONSES TO SDI AND ON RDT&E COST.—(1) The Secretary of Defense shall submit to Congress a report as to—

(A) what probable responses can be expected from potential enemies should the Strategic Defense Initiative programs be carried out to procurement and deployment, such as what increase may be anticipated in offensive enemy weapons in an enemy's attempt to penetrate the defensive shield by increasing the number or qualities of its offensive weapons:

(B) what can be expected from potential enemies in the deployment of weapons not endangered by the Strategic Defense Initiative, such as cruise missiles and low trajectory submarine missiles;

(C) the degree of the dependency of success for the Strategic Defense Initiative upon a potential enemy's anti-satellite weapons capability; and

(D) the cost estimates for the research, development, test, and evaluation for the proposed Strategic Defense Initiative.

(2) The report required by paragraph (1) shall be submitted to Congress with the request of the Secretary of Defense for appropriations for the Strategic Defense Initiative for fiscal year 1987.

(b) REPORT ON PROCUREMENT AND DEPLOYMENT COST.—The Secretary of Defense shall submit to Congress a report on the cost estimates for procurement and deployment of Strategic Defense Initiative programs. The report shall be submitted as soon as possible but not later than submission of the budget request of the Department of Defense for fiscal year 1989. The Secretary shall include in such report the following information:[3]

(1)[3] The cost goals or cost objectives for the production and deployment of a Strategic Defense Initiative System determined on the basis of capabilities expected to be developed in the future and the cost goals or cost objectives for the individual components of such system (determined on the basis of capabilities expected to be developed in the future).

(2)[3] The estimated cost for production and deployment of the Strategic Defense Initiative System referred to in paragraph (1) and determined on the basis of prices in effect and capabilities in existence at the time of the preparation of the report and the estimated cost for the production and deployment of the individual components of such system (determined on the basis of prices in effect and capabilities in existence at the time of the preparation of the report).

SEC. 224. CONGRESSIONAL POLICY REGARDING CONSULTATION WITH OTHER MEMBERS OF NATO ON THE STRATEGIC DEFENSE INITIATIVE

(a) COMMENDATION OF PRESIDENT'S ACTION.—The Congress commends the President's attempts to initiate cooperation between the United States and other member nations of the North Atlantic Treaty Organization (NATO) on the Strategic Defense Initiative.

[3] Sec. 214 of Public Law 99–661 added the last sentence and subparas. (1) and (2).

(b) CONSULTATION AND COOPERATION WITH OTHER NATO NATIONS.—It is the sense of Congress—

(1) that the mutual defense of NATO member nations is strengthened when there is a high degree of consultation and cooperation among member nations; and

(2) that the President should continue consultations with other member nations of NATO on the Strategic Defense Initiative program and, to the maximum extent feasible and within national security guidelines, keep such member nations informed of the progress, plans, and potential proposals of the United States regarding such program.

SEC. 225.[4] * * * [Repealed—1996]

SEC. 226. REPORT ON STRATEGIC AND THEATER BALLISTIC MISSILE DEFENSES

(a) REQUIREMENT FOR STUDY.—The Secretary of Defense shall conduct a study to examine the feasibility and military value of the early application of defenses against ballistic missile attack from the standpoint of—

(1) defending high value United States and allied capabilities abroad; and

(2) defending United States strategic deterrent capabilities.

(b) MATTERS TO BE INCLUDED IN STUDY.—The study shall specifically address—

(1) the contribution such defenses could make to deterrence stability;

(2) the adequacy in this regard of existing programs, including in particular the Strategic Defense Initiative; and

(3) the adequacy of the Army's Anti-Tactical Missile (ATM) program for allied defense.

(c) REPORT ON STUDY.—The Secretary of Defense shall submit to Congress a report containing the results of such study not later than February 15, 1986.

TITLE III—OPERATION AND MAINTENANCE

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SEC. 305. AUTHORIZATION OF APPROPRIATIONS FOR TRANSPORTATION OF HUMANITARIAN RELIEF SUPPLIES TO AFGHAN REFUGEES

(a) AUTHORIZATION OF FUNDS.—(1) There is hereby authorized to be appropriated to the Department of Defense for fiscal year 1986 the sum of $10,000,000 and for fiscal year 1987 the sum of $10,000,000 for the purpose of providing transportation for humanitarian relief for persons displaced or who are refugees because of the invasion of Afghanistan by the Soviet Union.[5]

(2)[6] Of the funds appropriated by the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law

[4] Sec. 253(2) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 234) repealed sec. 225, which stated congressional findings and a sense of the Congress regarding SDI and the ABM Treaty.

[5] Sec. 331(a) of the Department of Defense Authorization Act, 1987 (Public Law 99–661; 100 Stat. 3816), added the phrase "and for fiscal year 1987 the sum of $10,000,000".

[6] This subsection was added by sec. 331(a) of the Department of Defense Authorization Act, 1987 (Public Law 99–661; 100 Stat. 3816).

99–190; 99 Stat. 1189), for operation and maintenance for the Air Force, $7,000,000 shall remain available for obligation until September 30, 1987, for the purpose described in paragraph (1) (including providing transportation of excess nonlethal supplies of the Department of Defense made available for humanitarian relief purposes under section 2547 of title 10, United States Code). Such funds shall be in addition to funds appropriated pursuant to the authorization in paragraph (1).

(b) TRANSPORTATION UNDER DIRECTION OF THE SECRETARY OF STATE.—Transportation provided with funds appropriated pursuant to the authorization in this section shall be under the direction of the Secretary of State.

(c) MEANS OF TRANSPORTATION TO BE USED.—Transportation for humanitarian relief provided with funds appropriated pursuant to the authorization in this section shall be by the most economical commercial or military means available, unless the Secretary of State determines that it is in the national interest of the United States to use means other than the most economical available. Such means may include the use of aircraft and personnel of the reserve components of the Armed Forces.

(d)[6] AUTHORIZATION TO TRANSFER FUNDS.—The Secretary of Defense is authorized to transfer to the Secretary of State not more than $3,000,000 of the funds appropriated pursuant to the authorization in this section for fiscal year 1987 to provide for (1) paying administrative costs of providing the transportation described in subsection (a), and (2) providing for the acquisition of transportation assets for the distribution of supplies outside the United States to accomplish the purposes of this section.

(e)[6] AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to the authorization in subsection (a) shall remain available until expended, to the extent provided in appropriation Acts.

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TITLE X—MATTERS RELATING TO ARMS CONTROL[7]

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TITLE XI—MATTERS RELATING TO NATO

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SEC. 1103.[8] NATO COOPERATIVE RESEARCH AND DEVELOPMENT * * *
[Repealed—1989]

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TITLE XIV—GENERAL PROVISIONS

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[7] For text, see *Legislation on Foreign Relations Through 2004*, vol. II, sec. F.

[8] Sec. 931 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1531) codified several sections of title 10 relating to cooperative agreements with NATO and other countries (see secs. 2350a–f), and repealed sec. 1103.

SEC 1411.[9] CONDITIONS OF SPENDING FUNDS FOR BINARY CHEMICAL MUNITIONS

(a) LIMITATION ON FISCAL YEAR 1986 FUNDS.—Funds appropriated pursuant to authorizations of appropriations in title I may not be used—

(1) for procurement or assembly of binary chemical munitions (or components of such munitions); or

(2) for establishment of production facilities necessary for procurement or assembly of binary chemical munitions (or components of such munitions), except in accordance with subsections (b), (c), (d), and (e).

(b) NATO CONSULTATION.—Subject to subsections (c), (d), and (e), funds referred to in subsection (a) may be used for procurement or assembly of binary chemical munitions or for the establishment of production facilities necessary for the procurement or assembly of binary chemical munitions (or components of such munitions) if the President certifies to Congress that the United States—

(1) has submitted to the North Atlantic Treaty Organization, a force goal stating the requirement for modernization of the United States proportional share of the NATO chemical deterrent with binary munitions and said force goal has been formally adopted by the North Atlantic Council;

(2) has developed in coordination with the Supreme Allied Commander, Europe, a plan under which United States binary chemical munitions can be deployed under appropriate contingency plans to deter chemical weapons attacks against the United States and its allies; and

(3) has consulted with other member nations of the North Atlantic Treaty Organization (NATO) on that plan.

(c) CONDITIONS FOR FINAL ASSEMBLY.—Funds referred to in subsection (a) may not be used for the final assembly of complete binary chemical munitions before October 1, 1987, and, subject to subsections (d) and (e), may only be used for such purpose on or after that date if—

(1) a mutually verifiable international agreement concerning binary and other similar chemical munitions has not been entered into by the United States by that date;

(2)[10] the President, after that date, transmits to Congress a certification that—

(A) final assembly of such complete munitions is necessitated by national security interests of the United States and the interests of other NATO member nations;

(B) handling and storage safety specifications established by the Department of Defense with respect to such munitions will be met or exceeded;

(C) applicable Federal safety requirements will be met or exceeded in the handling, storage, and other use of such munitions; and

[9] Sec. 1411 was amended and restated by sec. 8093 of the Further Continuing Appropriations, 1986 (Public Law 99–190; 99 Stat. 1217).

[10] The President transmitted to the Congress certification with respect to the 155mm Binary Chemical Artillery Projectile, on October 16, 1987, as printed in House Document 100–118, October 19, 1987.

(D) the plan of the Secretary of Defense for destruction of existing United States chemical warfare stocks developed pursuant to section 1412 (which shall, if not sooner transmitted to Congress, accompany such certification) is ready to be implemented;

(3) final assembly is carried out only after the end of the 60-day period beginning on the date such certification is received by the Congress;

(4) the plan of the Secretary of Defense for land-based storage of such munitions within the United States during peacetime provides that the two components that constitute a binary chemical munition are to be stored in separate States; and

(5) the plan of the Secretary of Defense for the transportation of such munitions within the United States during peacetime provides that the two components that constitute a binary munition are transported separately.

(d) RESTRICTIONS ON PRODUCTION OF THE BIGEYE BOMB.—Except as provided below, none of the funds appropriated pursuant to authorizations of appropriations in title I may be used for procurement or assembly of the BIGEYE binary chemical bomb or for procurement of components for the BIGEYE bomb until 60 days after the Secretary of Defense has submitted a report describing—

(1) the specific operational requirements which must be achieved by the BIGEYE system; and

(2) the actual performance of the system during operational testing with respect to each of the operational test criteria; and

(3) any exceptions to the operational criteria deemed acceptable by the Department of Defense.

Subject to subsection (b) nothing in this subsection will prohibit the procurement of BIGEYE production facilities and associated equipment.

(e) RESTRICTION ON PRODUCTION OF THE GB–2 ARTILLERY PROJECTILE.—None of the funds appropriated pursuant to authorizations in title I for procurement or assembly of the GB–2 artillery projectile may be obligated or expended before October 1, 1986.

(f) SENSE OF CONGRESS.—It is the sense of Congress that existing unitary chemical munitions currently stored in the United States and in European member nations of NATO should be replaced by modern, safer binary chemical munitions.

(g) REPORT.—Not later than October 1, 1986, the President shall submit to Congress a report describing the results of consultations among NATO member nations concerning the organization's chemical deterrent posture. The report shall include descriptions of any consultations concerning—

(1) efforts to provide key civilian workers at military support facilities in Europe—

(A) with personal and collective equipment to protect against the use of chemical munitions; and

(B) with the training required for the use of such equipment;

(2) efforts to upgrade the chemical reconnaissance, decontamination, and protective capabilities of the military forces of each NATO member nation to a level adequate to meet the chemical threat identified in NATO intelligence estimates;

(3) efforts to initiate a NATO-wide study of measures required to protect ports, airfields, logistics centers, and command and control facilities in European member nations of NATO against chemical attack; and

(4) efforts to initiate a NATO-wide study of equitable and efficient sharing among NATO member nations of responsibilities with regard to deterring the use of chemical munitions in Europe.

SEC. 1412.[11] DESTRUCTION OF EXISTING STOCKPILE OF LETHAL CHEMICAL AGENTS AND MUNITIONS

(a)[12] IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Defense (hereinafter in this section referred to as the "Secretary") shall, in accordance with the provisions of this section, carry out the destruction of the United States' stockpile of lethal chemical agents and munitions that exists on November 8, 1985.[13]

(b) DATE FOR COMPLETION.—(1) Except as provided by paragraphs (2) and (3), the destruction of such stockpile shall be completed by the stockpile elimination deadline.[14]

(2) If a treaty banning the possession of chemical agents and munitions is ratified by the United States, the date for completing the destruction of the United States' stockpile of such agents and munitions shall be the date established by such treaty.

(3)(A) In the event of a declaration of war by the Congress or of a national emergency by the President or the Congress or if the Secretary of Defense determines that there has been a significant delay in the acquisition of an adequate number of binary chemical weapons to meet the requirements of the Armed Forces (as defined by the Joint Chiefs of Staff as of September 30, 1985), the Secretary may defer, beyond the stockpile elimination deadline,[14] the destruction of not more than 10 percent of the stockpile described in subsection (a)(1).

(B) The Secretary shall transmit written notice to the Congress of any deferral made under subparagraph (A) not later than the earlier of (A) 30 days after the date on which the decision to defer is made, or (B) 30 days before the stockpile elimination deadline.[15]

(4)[16] If the Secretary determines at any time that there will be a delay in meeting the requirement in paragraph (1) for the completion of the destruction of chemical weapons by the stockpile elimination deadline, the Secretary shall immediately notify the Committee on Armed Services of the Senate and the Committee on

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[11] 50 U.S.C. 1521. See also subtitle G of Public Law 102–484 (106 Stat. 2341).

[12] Sec. 179(1) of Public Law 102–484 (106 Stat. 2347) struck out para. designation (1), and struck out para. (2) in subsec. (a).

[13] Sec. 171(b) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1507) struck out "the date of the enactment of this Act" and inserted in lieu thereof "November 8, 1985".

[14] Sec. 118(a)(1) of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 102 Stat. 1934) struck out "September 30, 1994" and inserted in lieu thereof "the stockpile elimination deadline".

[15] Sec. 118(a)(2) of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 102 Stat. 1934) struck out "within 30 days after the date on which the determination to defer is made or by August 31, 1994, whichever is earlier." and inserted in lieu thereof text beginning at "not later than the earlier of * * *".

[16] Sec. 118(a)(3) of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 102 Stat. 1934) added new paras. (4) and (5).

Armed Services of the House of Representatives [17] of that projected delay.

(5) [16] For purposes of this section, the term "stockpile elimination deadline" means July 31, 1999.[18]

(c) ENVIRONMENTAL PROTECTION AND USE OF FACILITIES.—(1) In carrying out the requirement of subsection (a),[19] the Secretary shall provide for—

(A) maximum protection for the environment, the general public, and the personnel who are involved in the destruction of the lethal chemical agents and munitions referred to in subsection (a); and

(B) adequate and safe facilities designed solely for the destruction of lethal chemical agents and munitions.

(2) [20] Facilities constructed to carry out this section shall, when no longer needed for the purposes for which they were constructed, be disposed of in accordance with applicable laws and regulations and mutual agreements between the Secretary of the Army and the Governor of the State in which the facility is located.

(3) [21] (A) Facilities constructed to carry out this section may not be used for a purpose other than the destruction of the stockpile of lethal chemical agents and munitions that exists on November 8, 1985.

(B) The prohibition in subparagraph (A) shall not apply with respect to items designated by the Secretary of Defense as lethal chemical agents, munitions, or related materials after November 8, 1985, if the State in which a destruction facility is located issues the appropriate permit or permits for the destruction of such items at the facility.

(4) [22] In order to carry out subparagraph (A) of paragraph (1), the Secretary may make grants to State and local governments (either directly or through the Federal Emergency Management Agency) to assist those governments in carrying out functions relating to emergency preparedness and response in connection with the disposal of the lethal chemical agents and munitions referred to in subsection (a). Funds available to the Department of Defense for the purpose of carrying out this section may be used for such

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[17] Sec. 1502(b)(6) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 508) struck out "Committees on Armed Services of the Senate and House of Representatives" and inserted in lieu thereof "Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives". Sec. 1067(11) of Public Law 106–65 (113 Stat. 774) subsequently struck out "Committee on National Security" and inserted in lieu thereof "Committee on Armed Services". The Committee on National Security subsequently returned to the name "Committee on Armed Services"; see sec. 1067 of Public Law 106–65 (113 Stat. 774).

[18] Sec. 151(a) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1313) struck out "April 30, 1997" and inserted in lieu thereof "July 31, 1999.

[19] Sec. 179(2) of Public Law 102–484 (106 Stat. 2347) struck out "subsection (a)(1)" and inserted in lieu thereof "subsection (a)".

[20] Sec. 141(b)(1)(A) of Public Law 106–65 (113 Stat. 537) amended and restated para. (2), which had read as follows:

"(2) Facilities constructed to carry out this section may not be used for any purpose other than the destruction of lethal chemical weapons and munitions, and when no longer needed to carry out this section, such facilities shall be cleaned, dismantled, and disposed of in accordance with applicable laws and regulations.".

[21] New para. (3) added by sec. 141(b)(1)(C) of Public Law 106–65 (113 Stat. 538).

[22] Sec. 172 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1507) added this paragraph as para. (3). Sec. 141(b)(1)(B) of Public Law 106–65 (113 Stat. 538) redesignated as para. (4) and inserted a new para. (3).

grants. Additionally, the Secretary may provide funds through cooperative agreements with State and local governments for the purpose of assisting them in processing, approving, and overseeing[23] permits and licenses necessary for the construction and operation of facilities to carry out this section. The Secretary shall ensure that funds provided through such a cooperative agreement are used only for the purpose set forth in the preceding sentence.[24]

(5)[25] (A) In coordination with the Secretary of the Army and in accordance with agreements between the Secretary of the Army and the Director of the Federal Emergency Management Agency, the Director shall carry out a program to provide assistance to State and local governments in developing capabilities to respond to emergencies involving risks to the public health or safety within their jurisdictions that are identified by the Secretary as being risks resulting from—

(i) the storage of lethal chemical agents and munitions referred to in subsection (a) at military installations in the continental United States; or

(ii) the destruction of such agents and munitions at facilities referred to in paragraph (1)(B).

(B) No assistance may be provided under this paragraph after the completion of the destruction of the United States' stockpile of lethal chemical agents and munitions.

(C) Not later than December 15 of each year, the Director shall transmit a report to Congress on the activities carried out under this paragraph during the fiscal year preceding the fiscal year in which the report is submitted.

(d)[26] REQUIREMENT FOR STRATEGIC PLAN.—(1) The Under Secretary of Defense for Acquisition, Technology, and Logistics and the Secretary of the Army shall jointly prepare, and from time to time shall update as appropriate, a strategic plan for future activities for destruction of the United States' stockpile of lethal chemical agents and munitions.

(2) The plan shall include, at a minimum, the following considerations:

(A) Realistic budgeting for stockpile destruction and related support programs.

(B) Contingency planning for foreseeable or anticipated problems.

(C) A management approach and associated actions that address compliance with the obligations of the United States under the Chemical Weapons Convention treaty and that take full advantage of opportunities to accelerate destruction of the stockpile.

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[23] Sec. 107(c) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1564) struck out "and approving" and inserted in lieu thereof ", approving, and overseeing".

[24] Text beginning with "Additionally, the Secretary may provide * * *" was added by sec. 151(b) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1313).

[25] Sec. 141(a) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 1943) added as para. (4); redesignated as para. (5) by sec. 141(b)(1)(B) of Public Law 106–65 (113 Stat. 538).

[26] Sec. 931 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2031) amended and restated subsec. (d).

(3) The Secretary of Defense shall each year submit to the Committee on the Armed Services of the Senate and the Committee on Armed Services of the House of Representatives the strategic plan as most recently prepared and updated under paragraph (1). Such submission shall be made each year at the time of the submission to the Congress that year of the President's budget for the next fiscal year.

(e) MANAGEMENT ORGANIZATIONS.—In carrying out this section, the Secretary shall provide for the establishment, not later than May 1, 1986, of a management organization within the Department of the Army.

(2) Such organization shall be responsible for management of the destruction of agents and munitions under this section.

(3) The Secretary shall designate a general officer or civilian equivalent[27] as the director of the management organization established under paragraph (1). Such officer shall have—

(A) experience in the acquisition, storage, and destruction of chemical agents and munitions;

(B) training in chemical warfare defense operations; and

(C) outstanding qualifications regarding safety in handling chemical agents and munitions.

(f) IDENTIFICATION OF FUNDS.—(1)[28] Funds for carrying out this section, including funds for military construction projects necessary to carry out this section,[29] shall be set forth in the budget of the Department of Defense for any fiscal year as a separate account. Such funds shall not be included in the budget accounts for any military department.

(2)[28] Amounts appropriated to the Secretary for the purpose of carrying out subsection (c)(5)[30] shall be promptly made available to the Director of the Federal Emergency Management Agency.

(g)[31] PERIODIC REPORTS.—(1) Except as provided by paragraph (3),[32] the Secretary shall transmit, by December 15 of each year, a report to the Congress on the activities carried out under this

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[27] Sec. 153(c) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 216) inserted "or civilian equivalent" after "general officer".

[28] Sec. 141(b) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 1943) added para. designation "(1)" and added para. (2).

[29] Sec. 142 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2689) inserted ", including funds for military construction projects necessary to carry out this section," after "carrying out this section", and struck out the last sentence of this subsection, which had read as follows: "Funds for military construction projects necessary to carry out this section may be set out in the annual military construction budget separately from other funds for such project.".

[30] Sec. 141(b)(2) of Public Law 106–65 (113 Stat. 538) struck out "(c)(4)" and inserted in lieu thereof "(c)(5)".

[31] Sec. 153(b)(1) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 216) struck out "(g) ANNUAL REPORT.—" and inserted in lieu thereof "(g) PERIODIC REPORTS.—".

Sec. 1031(27) of Public Law 106–65 (113 Stat. 751) made sec. 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 (Public Law 104–66; 31 U.S.C. 1113 note), as amended, which provided that "each provision of law requiring the submittal to Congress (or any committee of the Congress) of any annual, semiannual, or other regular periodic report specified * * * shall cease to be effective, with respect to that requirement, May 15, 2000.", inapplicable to this section. For Public Law 104–66 and other legislation on the repeal of reporting requirements, see *Legislation on Foreign Relations Through 2004*, vol. IV.

[32] Sec. 179(3) of Public Law 102–484 (106 Stat. 2347) struck out "paragraph (4)" and inserted in lieu thereof "paragraph (3)"; struck out para. (2), which delineated the requirements of the first report to be filed by December 15, 1985; redesignated paras. (3) and (4) as (2) and (3), respectively.

section during the fiscal year ending on September 30 of the calendar year in which the report is to be made.

(2)[33] Each annual report shall contain—

(A) a site-by-site description of the construction, equipment, operation, and dismantling of facilities (during the fiscal year for which the report is made) used to carry out the destruction of agents and munitions under this section, including any accidents or other unplanned occurrences associated with such construction and operation;[34]

(B)[34] A site-by-site description of actions taken to assist State and local governments (either directly or through the Federal Emergency Management Agency) in carrying out functions relating to emergency preparedness and response in accordance with subsection (c)(4).[35]

(C)[36] an accounting of all funds expended (during such fiscal year) for activities carried out under this section, with a separate accounting for amounts expended for—

(i) the construction of and equipment for facilities used for the destruction of agents and munitions;

(ii) the operation of such facilities;

(iii) the dismantling or other closure of such facilities;

(iv) research and development;

(v) program management;

(vi) travel and associated travel costs for Citizens' Advisory Commissioners under section 172(g) of Public Law 102–484 (50 U.S.C. 1521 note); and

(vii) grants to State and local governments to assist those governments in carrying out functions relating to emergency preparedness and response in accordance with subsection (c)(3).

(D)[34] an assessment of the safety status and the integrity of the stockpile of lethal chemical agents and munitions subject to this section, including—

(i) an estimate on how much longer that stockpile can continue to be stored safely;

(ii) a site-by-site assessment of the safety of those agents and munitions; and

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[33] Sec. 153(b)(2)(A) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 216) struck out "Each such report shall contain—" and inserted in lieu thereof "Each annual report shall contain—". Previously, sec. 179(3) of Public Law 102–484 (106 Stat. 2347) struck from para. (2) "report other than the first one" and inserted in lieu thereof "such report".

[34] Sec. 171(a) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1507) struck out "and" at the end of subpara. (A); inserted "; and" in lieu of a period at the end of subpara. (B); and added a new subpara. (C). Sec. 141(c)(2) and (3) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 1943) subsequently redesignated subparas. (B) and (C) as subparas. (C) and (D), respectively, and added a new subpara. (B).

[35] Sec. 141(b)(3) of Public Law 106–65 (113 Stat. 538) struck out "(c)(3)" and inserted in lieu thereof "(c)(4)".

[36] Sec. 141(c)(1) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 1943) struck out "and" at the end of clause (v); replaced a period at the end of clause (vi) with "; and"; and added a new clause (vii). Previously, sec. 153(b)(2)(B) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 216) struck out "and" at the end of clause (iv); struck out a period and inserted "; and" at the end of clause (v); and added clause (vi).

(iii) a description of the steps taken (to the date of the report) to monitor the safety status of the stockpile and to mitigate any further deterioration of that status.

(3)[37] The Secretary shall transmit the final report under paragraph (1)[38] not later than 120 days following the completion of activities under this section.

(h) PROHIBITION ON ACQUIRING CERTAIN LETHAL CHEMICAL AGENTS AND MUNITIONS.—(1) Except as provided in paragraph (2), no agency of the Federal Government may, after November 8, 1985,[39] develop or acquire lethal chemical agents or munitions other than binary chemical weapons.

(2)(A) The Secretary of Defense may acquire any chemical agent or munition at any time for purposes of intelligence analysis.

(B) Chemical agents and munitions may be acquired for research, development, test, and evaluation purposes at any time, but only in quantities needed for such purposes and not in production quantities.

(i) REAFFIRMATION OF UNITED STATES POSITION ON FIRST USE OF CHEMICAL AGENTS AND MUNITIONS.—It is the sense of Congress that the President should publicly reaffirm the position of the United States as set out in the Geneva Protocol of 1925, which the United States ratified with reservations in 1975.

(j) DEFINITIONS.—For purposes of this section:

(1) The term "chemical agent and munition" means an agent or munition that, through its chemical properties, produces lethal or other damaging effects on human beings, except that such term does not include riot control agents, chemical herbicides, smoke and other obscuration materials.

(2) The term "lethal chemical agent and munition" means a chemical agent or munition that is designed to cause death, through its chemical properties, to human beings in field concentrations.

(3) The term "destruction" means, with respect to chemical munitions or agents—

(A) the demolishment of such munitions or agents by incineration or by any other means; or

(B) the dismantling or other disposal of such munitions or agents so as to make them useless for military purposes

[37] Sec. 1041(d) of Public Law 105–85 (111 Stat. 1885) struck out para. (3), struck out the last sentence in para. (4), and redesignated para. (4) as para. (3). These amendments, in effect, struck out amendments made previously by sec. 153(b) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 216). Former para. (3) read as follows:

"(3) The Secretary shall transmit to the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on National Security and the Committee on Appropriations of the House of Representatives a quarterly report containing an accounting of all funds expended (during the quarter covered by the report) for travel and associated travel costs for Citizens' Advisory Commissioners under section 172(g) of Public Law 102–484 (50 U.S.C. 1521 note). The quarterly report for the final quarter of the period covered by a report under paragraph (1) may be included in that report.".

The last sentence of para. (3), as redesignated from para. (4) and that sentence struck out by Public Law 105–85, read as follows: "No quarterly report is required under paragraph (3) after the transmittal of the final report under paragraph (1).".

[38] Sec. 153(b)(5)(A) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 216) struck out "this subsection" and inserted in lieu thereof "paragraph (1)".

[39] Sec. 171(b) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1507) struck out "the date of the enactment of this Act" and inserted in lieu thereof "November 8, 1985".

and harmless to human beings under normal circumstances.

(k)[40] OPERATIONAL VERIFICATION.—(1) Until the Secretary of the Army successfully completes (through the prove-out work to be conducted at Johnston Atoll) operational verification of the technology to be used for the destruction of live chemical agents and munitions under this section, the Secretary may not conduct any activity for equipment prove out and systems test before live chemical agents are introduced at a facility (other than the Johnston Atoll facility) at which the destruction of chemical agent and munitions weapons is to take place under this section. The limitation in the preceding sentence shall not apply with respect to the Chemical Agent Munition Disposal System in Tooele, Utah.

(2) Upon its successful completion of the prove out of the equipment and facility at Johnston Atoll, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives[41] a report certifying that the prove out is completed.

(3) If the Secretary determines at any time that there will be a delay in meeting the deadline of December 31, 1990, scheduled by the Department of Defense for completion of the operational verification at Johnston Atoll referred to in paragraph (1), the Secretary shall immediately notify the Committees of that projected delay.

SEC. 1413. REPORT CONCERNING THE TESTING OF CHEMICAL WARFARE AGENTS

The Secretary of Defense shall, within 90 days after the date of enactment of this Act, transmit a report to the Committees on Armed Services of the Senate and House of Representatives[42] describing the following matters concerning the testing of diluted or undiluted chemical warfare agents:

(1) The criteria and process used for selecting sites for such testing.

(2) The nature and extent of any consultation carried out with State and local officials before the site for such testing is selected.

(3) The consideration that is given to the proximity of residential dwelling units, schools, child care centers, nursing homes, hospitals, or other health care facilities to the testing site.

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[40] Sec. 118(b) of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 102 Stat. 1934) struck out subsec. (k), which had provided an effective date for the provisions of this section to be October 1, 1985, and inserted in lieu thereof subsec. (k) on "Operational Verification".

[41] Sec. 1502(b)(6) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 508) struck out "Committees on Armed Services of the Senate and House of Representatives" and inserted in lieu thereof "Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives". Sec. 1067(11) of Public Law 106–65 (113 Stat. 774) subsequently struck out "Committee on National Security" and inserted in lieu thereof "Committee on Armed Services". The Committee on National Security subsequently returned to the name "Committee on Armed Services"; see sec. 1067 of Public Law 106–65 (113 Stat. 774).

[42] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. The Committee on National Security subsequently returned to the name "Committee on Armed Services"; see sec. 1067 of Public Law 106–65 (113 Stat. 774).

(4) Whether an environmental impact statement should be required prior to the approval of a contract for such testing.

(5) Any costs that may have to be incurred by the Federal Government to assist companies that carry out such testing to relocate to more isolated areas.

(6) The degree to which the Secretary estimates that such testing will increase or decrease.

(7) Any recurring problems associated with such testing or the site selection process for such testing.

(8) Any changes in site selection process that are to be implemented by the Secretary or for which legislative action is necessary.

PART C—DRUG INTERDICTION, LAW ENFORCEMENT, AND OTHER SPECIFIC PROGRAMS

SEC. 1421.[43] ENHANCED DRUG-INTERDICTION ASSISTANCE

(a) MANDATORY ASSIGNMENT OF COAST GUARD PERSONNEL ON NAVAL VESSELS.—The Secretary of Defense and the Secretary of Transportation shall provide that there be assigned on board each surface naval vessel at sea in a drug-interdiction area at least one member of the Coast Guard who is trained in law enforcement and has power to arrest, search, and seize property and persons suspected of violations of law.

(b) LAW ENFORCEMENT FUNCTIONS.—Members of the Coast Guard assigned to duty on board naval vessels under this section shall perform such law enforcement functions (including drug-interdiction functions)—

(1) as may be agreed upon by the Secretary of Defense and the Secretary of Transportation; and

(2) as are otherwise within the jurisdiction of the Coast Guard.

(c) AUTHORIZATION OF NECESSARY COAST GUARD PERSONNEL; FUNDING.—(1) The active-duty military strength level for the Coast Guard for fiscal year 1986 is increased by 500. Additional members of the Coast Guard who are on active duty by reason of this subsection shall be assigned to duty as provided in subsection (a).

(2) Of the funds appropriated for operation and maintenance for the Navy for fiscal year 1986, the sum of $15,000,000 shall be transferred to the Secretary of Transportation and shall be available only for the additional personnel authorized by paragraph (1).

(d) DEFINITIONS.—For the purposes of this section:

(1) The term "drug-interdiction area" means an area outside the land area of the United States in which the Secretary of Defense (in consultation with the Attorney General) determines that activities involving smuggling of drugs into the United States are ongoing.

(2) The term "active-duty military strength level for the Coast Guard for fiscal year 1986" means the full-time equivalent strength level for active-duty military personnel of the Coast Guard for fiscal year 1986 required to be maintained by

[43] 14 U.S.C. 89 note.

section 3 of the Coast Guard Authorization Act of 1984 (Public Law 98–557; 98 Stat. 2860).

SEC. 1422. ESTABLISHMENT, OPERATION, AND MAINTENANCE OF DRUG LAW ENFORCEMENT ASSISTANCE ORGANIZATIONS OF THE DEPARTMENT OF DEFENSE

(a) AUTHORIZATION OF FUNDS FOR ELEMENTS ASSISTING CIVILIAN DRUG INTERDICTION.—(1) There are authorized to be appropriated to the Department of Defense for fiscal year 1986 such sums as may be necessary for the establishment, operation, and maintenance of airborne surveillance, detection, and interdiction units in the Department of Defense.

(2) There are authorized to be appropriated to the Department of Defense for fiscal year 1986 such sums as may be necessary for the operation and maintenance of the Directorate of the Department of Defense Task Force on Drug Law Enforcement.

(b) COMMAND, CONTROL, AND COORDINATION.—A special operations headquarters element shall provide necessary command, control, and coordination of appropriate active or Reserve Component special operations forces, combat rescue units, and other units for participation by such forces and units in drug law-enforcement assistance missions.

(c) REPORT ON PLANS TO ENHANCE COOPERATION WITH CIVILIAN DRUG ENFORCEMENT AGENCIES.—Not later than December 1, 1985, the Secretary of Defense shall submit to the committees on Armed Services of the Senate and the House of Representatives [44] a report on the manner in which the Department of Defense plans to obligate and expend funds appropriated or expected to be appropriated pursuant to the authorizations contained in this section. The report shall include a description of—

(1) actions or proposed actions to establish, operate, and maintain reserve component forces, airborne surveillance, detection, and interdiction units, including—

(A) actions or proposed actions to consolidate or establish, in a Special Operations Wing of the Air Force (reserve or active component), command, control, and coordination of Air Force Special Operations aircraft (including aircraft assigned to the Special Operations Wing of the Regular Air Force on or before March 1, 1985); and

(B) in the case of any such aircraft which are not to remain assigned to a Special Operation Wing of the Air Force, the disposition or planned disposition of those aircraft;

(2) actions and proposed actions to use rotary-wing and fixed-wing aircraft of the Department of Defense as well as other measures necessary to furnish (commensurate with military readiness and the provisions of chapter 18 of title 10, United States Code) optimal support to civilian law enforcement agencies; and

[44] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. The Committee on National Security subsequently returned to the name "Committee on Armed Services"; see sec. 1067 of Public Law 106–65 (113 Stat. 774).

(3) actions and proposed actions to promote dual use between the reserve component forces and civilian law enforcement agencies of the Department of Defense aircraft and other Department of Defense resources made available to civilian law enforcement agencies for the purpose of carrying out drug interdiction missions.

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SEC. 1424. STUDY ON THE USE OF THE E–2 AIRCRAFT FOR DRUG INTERDICTION PURPOSES

(a) STUDY BY SECRETARY OF THE NAVY.—The Secretary of the Navy shall conduct a test of the use of E–2 aircraft of the Navy to determine the effectiveness of that aircraft in drug interdiction. The study shall be conducted along the border between the United States and Mexico and shall be carried out over a period of 6 months.

(b) COLLECTION OF DATA.—As part of the test, the Secretary shall collect data on the contribution on the use of the E–2 aircraft to the apprehension of drug smugglers. This data shall include the number of intercepts which resulted in apprehensions.

(c) REPORT.—Not later than September 30, 1986, the Secretary shall submit to Congress a report on the results of the study.

SEC. 1425. STRATEGIC BOMBER PROGRAMS

(a) SENSE OF CONGRESS REGARDING THE ADVANCED TECHNOLOGY BOMBER AND THE ADVANCED CRUISE MISSILE.—It is the sense of Congress that—

(1) the capabilities inherent in the technologies associated with the Advanced Technology Bomber program and the Advanced Cruise Missile program are a critical national security asset for maintaining an adequate and credible deterrent posture;

(2) such technologies and programs should be developed as rapidly as feasible in order to produce and deploy advanced systems which will complicate the military planning of the Soviet Union and as a consequence enhance the deterrent posture of the United States;

(3) such technologies and programs should be funded at the levels authorized in this Act; and

(4) all the funds appropriated for such programs should be fully used for such programs.

(b) PROHIBITION ON USE OF FUNDS FOR ATB AND ACM FOR ANY OTHER PURPOSE.—None of the funds appropriated pursuant to an authorization of appropriations in this Act to carry out the Advanced Technology Bomber program or the Advanced Cruise Missile program may be used for any other purpose.

(c) SENSE OF CONGRESS ON B–1B BOMBER PROGRAM.—It is the sense of Congress that, consistent with the stated policy of the Department of Defense, the B–1B bomber aircraft procurement program should be terminated after acquisition under such program of 100 aircraft.

(d) LIMITATION ON NUMBER OF B–1B AIRCRAFT TO BE PROCURED.—None of the funds appropriated pursuant to an authorization contained in this Act may be obligated or expended for the conduct of research, design, demonstration, development, or procurement of more than 100 B–1B bomber aircraft (including any derivative or modified version of such aircraft).

SEC. 1426. RESTRICTIONS ON CERTAIN NUCLEAR PROGRAMS

(a) RESTRICTION ON FUNDING FOR MX MISSILE WARHEAD.—None of the funds appropriated pursuant to an authorization provided in this or any other Act may be obligated or expended for the production of W–87 warheads for the MX missile program in excess of the numbers of warheads required to arm the number of such missiles authorized by the Congress to be deployed and determined by the President to be necessary for quality assurance and reliability testing.

(b) EMPLOYMENT OF THE STANDARD MISSILE (SM–2(N)).—Except for the studies and report required by this section, none of the funds authorized to be appropriated by this Act may be expended for research, development, test, or procurement associated with a nuclear variant of the Standard Missile (SM–2(N)) or any associated nuclear warhead until 30 calendar days after the Secretary of the Navy submits to the Committees on Armed Services of the Senate and House of Representatives[45] a report which includes the following information:

((1) A description of the circumstances under which the SM–2(N) would be used and an assessment of likely enemy response (including countermeasures).

(2) A description of the release procedures and circumstances under which release would be authorized for employment of the SM–2(N).

(3) An analysis of conventional alternatives to the SM–2(N), including any necessary modification to the SM–2 or alternative to the Standard Missile or warhead, and the associated costs of those alternatives.

(4) A summary of all studies previously conducted analyzing the impact of the use of nuclear naval surface-to-air missiles on our own vessels and electronics.

(5) A list of all United States ships which may receive the SM–2(N).

(6) The number of additional conventional armed missiles which could be carried by United States ships if the SM–2(N) were not deployed and the impact on fleet air defense from that reduced conventional load.

(7) Any plans or programs for the development of a nuclear naval surface-to-air or air-to-air missile for fleet defense other than the SM–2(N).

(c) REPORT ON REQUIREMENTS FOR SPECIAL NUCLEAR MATERIALS.—(1) Not later than March 1, 1986, the Secretary of Defense and the Secretary of Energy, after consultation with the Joint

[45] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. The Committee on National Security subsequently returned to the name "Committee on Armed Services"; see sec. 1067 of Public Law 106–65 (113 Stat. 774).

Chiefs of Staff and the Director of the Arms Control and Disarmament Agency, shall submit a report to the Committees on Armed Services of the Senate and House of Representatives[45] detailing the military requirements for special nuclear materials through fiscal year 1991. The report shall include findings and recommendations concerning—

(A) requirements for production of plutonium, highly enriched uranium, and other special nuclear materials; and

(B) the recovery of special nuclear materials for military uses that have been transferred from military uses to civilian research and development uses.

(2) The report should also—

(A) address the availability of special nuclear materials to be derived from the retirement of existing nuclear weapons;

(B) address the feasibility of meeting military needs for special nuclear materials through the blending of high grade and low grade materials stocks;

(C) assess the impact of new materials separation, purification, and production technologies on nuclear proliferation; and

(D) contain the views of the Joint Chiefs of Staff and the Director of the Arms Control and Disarmament Agency.

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PART E—MISCELLANEOUS PROVISIONS

SEC. 1451. SENSE OF CONGRESS ON INTRODUCTION OF ARMED FORCES INTO NICARAGUA FOR COMBAT

It is the sense of Congress that United States Armed Forces should not be introduced into or over Nicaragua for combat. However, nothing in this section shall be construed as affecting the authority and responsibility of the President or Congress under the Constitution, statutes, or treaties of the United States in force.

SEC. 1452. SENSE OF CONGRESS CONCERNING PROTECTION OF UNITED STATES MILITARY PERSONNEL AGAINST TERRORISM

(a) FINDING.—The Congress finds that the protection of members of the Armed Forces against terrorist activity is among the highest national security concerns of the United States.

(b) SENSE OF CONGRESS.—Therefore, it is the sense of Congress that—

(1) the President should be supported in the vigorous exercise of his powers as Commander-in-Chief to protect members of the Armed Forces against terrorist activity; and

(2) such exercise of power should include the use of such measures as may be appropriate and consistent with law.

SEC. 1453. READINESS OF SPECIAL OPERATIONS FORCES

(a) CONGRESSIONAL FINDINGS.—The Congress finds that—

(1) the first duty of the Government is to provide for the common defense, including safeguarding the peace, safety, and security of the citizens of the United States;

(2) the incidence of terrorist, guerrilla, and other violent threats to citizens and property of the United States has rapidly increased;

(3) the special operations forces of the Armed Forces provide the United States with immediate and primary capability to respond to terrorism; and

(4) the special operations forces are the military mainstay of the United States for the purposes of nation-building and training friendly foreign forces in order to preclude deployment or combat involving the conventional or strategic forces of the United States.

(b) SENSE OF THE CONGRESS.—In view of the findings in subsection (a), it is the sense of the Congress that—

(1) the revitalization of the capability of the special operations forces of the Armed Forces should be pursued as a matter of the highest priority;

(2) personnel and other resources allocations should reflect the priority referred to in paragraph (1);

(3) the political and military sensitivity and the importance to national security of the special operations forces require that the Office of the Secretary of Defense should improve its management supervision of such forces in all aspects of the special operations mission area;

(4) the joint command and control of the special operations forces must permit direct and immediate access by the President and Secretary of Defense; and

(5) the commanders-in-chief of the unified commands should have available, within their operational areas of responsibility, sufficient special operations assets to execute the operations plans for which they are responsible or to support additional contingency operations directed from the national level.

* * * * * * *

cc. Department of Defense Authorization Act, 1985

Partial text of Public Law 98–525 [H.R. 5167], 98 Stat. 2492, Approved October 19, 1984 as amended by Public Law 99–145 [Department of Defense Authorization Act, 1986; S. 1160], 99 Stat. 619, Public Law 99–661 [National Defense Authorization Act for Fiscal Year 1987, S. 2368] 100 Stat. 3816, approved November 14, 1986; Public Law 100–456 [National Defense Authorization Act, Fiscal Year 1989; H.R. 4481], 102 Stat. 1918, approved September 29, 1988; Public Law 101–189 [National Defense Authorization Act for Fiscal Years 1990 and 1991; H.R. 2461], 103 Stat. 1352, approved November 29, 1989; Public Law 101–510 [National Defense Authorization Act for Fiscal Year 1991, H.R. 4739], 104 Stat. 1485, approved November 5, 1990; Public Law 102–190 [National Defense Authorization Act for Fiscal Years 1992 and 1993, H.R. 2100], 105 Stat. 1290, approved December 5, 1991; Public Law 102–484 [National Defense Authorization Act for Fiscal Year 1993; H.R. 5006], 106 Stat. 2315, approved October 23, 1992; Public Law 103–160 [National Defense Authorization Act for Fiscal Year 1994; H.R. 2401], 107 Stat. 1547, approved November 30, 1993; Public Law 103–337 [National Defense Authorization Act for Fiscal Year 1995; S. 2182], 108 Stat. 2663, approved October 5, 1994; Public Law 104–106 [National Defense Authorization Act for Fiscal Year 1996; S. 1124], 110 Stat. 186, approved February 10, 1996; Public Law 104–201 [National Defense Authorization Act for Fiscal Year 1997; H.R. 3230], 110 Stat. 2422, approved September 23, 1996; and by Public Law 106–65 [National Defense Authorization Act for Fiscal Year 2000; S. 1059], 113 Stat. 512, approved October 5, 1999

AN ACT To authorize appropriations for fiscal year 1985 for the military functions of the Department of Defense, to prescribe military personnel levels for that fiscal year for the Department of Defense, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * * * *

TITLE I—PROCUREMENT

* * * * * * *

AUTHORIZATION OF APPROPRIATIONS FOR CERTAIN NATO COOPERATIVE PROGRAMS

Sec. 105. (a) Funds are hereby authorized to be appropriated for fiscal year 1985 for activities of the Under Secretary of Defense for Research and Engineering for acquisition in connection with cooperative programs of the North Atlantic Treaty Organization as follows:

For acquisition of the Patriot missile system for the Federal Republic of Germany, $150,000,000.

For acquisition of point air defense of United States airbases in the Federal Republic of Germany, $65,000,000.

For acquisition of point air defense of United States airbases and other critical United States military facilities in Italy, $15,000,000.

For acquisition of point air defense for ground-launched cruise missile bases in Europe, $10,000,000.

For acquisition of point air defense of United States airbases in Turkey, $10,000,000.

(b) None of the amounts appropriated pursuant to the authorizations in subsection (a) may be obligated—

(1) for implementation of a cooperative program until the Secretary of Defense submits to the Committees on Armed Services of the Senate and House of Representatives[1] a copy of each government-to-government agreement relating to that program; or

(2) for acquisitions in connection with a NATO cooperative program in which the financial obligations of the United States exceed the collective financial obligations of European countries in connection with such program.

* * * * * * *

LIMITATION ON WAIVERS OF COST-RECOVERY REQUIREMENTS UNDER ARMS EXPORT CONTROL ACT

Sec. 107.[2] The authority of the President under section 21(e)(2) of the Arms Export Control Act may be exercised without regard to the limitation imposed by section 762A of the Department of Defense Appropriations Act, 1984 (Public Law 98–212).

WAIVER OF LIMITATION ON FOREIGN MILITARY SALES PROGRAM

Sec. 108.[2] The Arms Export Control Act shall be administered as if section 743A of the Department of Defense Appropriation Act, 1984 (Public Law 98–212; 96 Stat. 1858) had not been enacted into law.

TRANSFER OF CERTAIN MILITARY EQUIPMENT OR DATA TO FOREIGN COUNTRIES

Sec. 109.[3] Section 765(c) of the Department of Defense Appropriation Act, 1984 (Public Law 98–212), is hereby repealed.

POLICY CONCERNING ACQUISITION OF ADDITIONAL MX MISSILES

Sec. 110. (a) Subject to subsections (b) and (c), of the funds appropriated pursuant to the authorization of appropriations in section 103 for procurement of missiles for the Air Force, $2,500,000,000 may be used for the MX missile program, including acquisition of not more than 21 additional operational MX missiles.

(b) Except as provided in subsection (c), none of the $2,500,000,000 described in subsection (a) may be obligated for the procurement of additional operational MX missiles unless—

[1] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. The Committee on National Security subsequently returned to the name "Committee on Armed Services"; see sec. 1067 of Public Law 106–65 (113 Stat. 774).

[2] Although secs. 107 and 108 lifted these restrictions concerning certain provisions of the Arms Export Control Act as they applied during fiscal year 1984, similar restrictions were reenacted as secs. 8036 and 8055 of the Department of Defense Appropriation Act, 1986.

[3] Sec. 765(c) had prohibited the use of funds provided in Public Law 98–212 to sell or otherwise provide the AN/SQR–19 Towed Array Sonar to any foreign country.

(a) after March 1, 1985, the President submits to Congress a report described in subsection (e);

(2) a joint resolution approving the obligation of those funds is enacted as provided for in this section; and

(3) a second joint resolution is enacted as provided for in the Department of Defense Appropriation Act, 1985 (or in a joint resolution providing funds for the Department of Defense for fiscal year 1985), further approving the obligation of those funds.

(c) Of the $2,500,000,000 described in subsection (a), $1,000,000,000 may be obligated only for—

(1) procurement related to the deployment of the 21 MX missiles for which funds were authorized and appropriated for fiscal year 1984;

(2) advance procurement of parts and materials for the MX missile program and for the maintenance of the MX missile program contractor base; and

(3) spare parts for the MX missile program.

(d)(1) For the purpose of subsection (b)(2), "joint resolution" means only a joint resolution introduced after the date on which the report of the President under subsection (b)(1) is received by Congress the matter after the resolving clause of which is as follows: "That subject to the enactment (after the enactment of this joint resolution) of a joint resolution further approving the obligation of such funds, the Congress approves the obligation of funds appropriated for fiscal year 1985 for the procurement of additional operational MX missiles (in addition to the funds previously authorized to be obligated)."

(2) A resolution described in paragraph (1) introduced in the House of Representatives shall be referred to the Committee on Armed Services of the House of Representatives.[4] A resolution described in paragraph (1) introduced in the Senate shall be referred to the Committee on Armed Services of the Senate. Such a resolution may not be reported before the 8th day after its introduction.

(3) If the committee to which is referred a resolution described in paragraph (1) has not reported such resolution (or an identical resolution) at the end of 15 calendar days after its introduction or at the end of the first day after there has been reported to the House involved a joint resolution approving the further obligation of funds for the procurement of operational MX missiles as provided for in the Department of Defense Appropriation Act, 1985 (or in a joint resolution providing funds for the Department of Defense for fiscal year 1985), whichever is earlier, such committee shall be deemed to be discharged from further consideration of such resolution and such resolution shall be placed on the appropriate calendar of the House involved.

(4)(A) When the committee to which a resolution is referred has reported, or has been deemed to be discharged (under paragraph

[4] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. The Committee on National Security subsequently returned to the name "Committee on Armed Services"; see sec. 1067 of Public Law 106–65 (113 Stat. 774).

(3)) from further consideration of, a resolution described in paragraph (1), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution, and all points of order against the resolution (and against consideration of the resolution) are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

(B) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

(C) Immediately following the conclusion of the debate on a resolution described in paragraph (1), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

(D) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in paragraph (1) shall be decided without debate.

(5) If, before the passage by one House of a resolution of that House described in paragraph (1), that House receives from the other House a resolution described in paragraph (1), then the following procedures shall apply:

(A) The resolution of the other House shall not be referred to a committee.

(B) With respect to a resolution described in paragraph (1) of the House receiving the resolution—

(i) the procedure in that House shall be the same as if no resolution had been received from the other House; but

(ii) the vote on final passage shall be on the resolution of the other House.

(6) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in paragraph (1), and it supercedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure

of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(e) A report under subsection (b)(1) shall include—

(1) a statement that the President has determined that further acquisition of operational missiles under the MX missile program is in the national security interest of the United States and is consistent with United States arms control policy;

(2) findings of the President concerning the effect of the acquisition and deployment of such missiles on the vulnerability of the United States land-based intercontinental ballistic missile force;

(3) a discussion of the basing mode for the MX missile (and related improvements in silo-hardening technology) and of proposals for the basing mode for the small, single-warhead intercontinental ballistic missile; and

(4) to the extent not covered under paragraphs (1) through (3), the assessment of the President submitted pursuant to subsection (g)(2).

(f) Obligation for the MX missile program of funds appropriated for fiscal year 1985 is subject to section 1231 of the Department of Defense Authorization Act, 1984 (Public Law 98–94; 97 Stat. 693).

(g)(1) Section 1231(e) of the Department of Defense Authorization Act, 1984 (Public Law 98–94; 97 Stat. 694) is amended—

(A) by striking out "the Committee on Armed Services of the Senate and House of Representatives" and inserting in lieu thereof "Congress";

(B) by striking out "the date of the enactment of this Act" and inserting in lieu thereof "September 24, 1983,";

(C) by striking out "and" at the end of clause (B);

(D) by striking out the period at the end of clause (C) and inserting in lieu thereof "; and"; and

(E) by adding at the end thereof the following new clause:

"(D) the progress of efforts to develop more survivable basing modes for the MX and other intercontinental missiles, including a new small mobile intercontinental ballistic missile.".

(2) The first assessment under section 1231(e) of the Department of Defense Authorization Act, 1985, submitted after the date of the enactment of this Act shall be submitted as part of the report described in subsection (e) (rather than coincident with any request for funds for the procurement of MX missiles submitted to Congress before the submission of that report).

PROHIBITION OF SPENDING FUNDS FOR BINARY CHEMICAL MUNITIONS

Sec. 111. None of the funds appropriated pursuant to authorizations of appropriations in this title may be used for procurement of binary chemical munitions, including advanced procurement of long-lead components or for the establishment of a production base for such munitions.

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FOREIGN MILITARY SALES OF AIR NATIONAL GUARD OA–37 AIRCRAFT

Sec. 113. It is the sense of Congress—

(1) that the Air Force should, at the earliest practicable date, provide modern replacement aircraft for those Air National Guard units currently using OA–37 Dragonfly aircraft in order to fulfill Forward Air Controller (FAC) mission of the Air National Guard; and

(2) that the United States should not sell or otherwise provide to any foreign country any OA–37 aircraft currently assigned to an Air National Guard unit unless the unit to which such aircraft is assigned is in the process of converting to the use of a more modern aircraft or unless the OA–37 aircraft to be sold or otherwise provided to a foreign country has been replaced with an OA–37 from the stocks of the Air Force.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

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POLICY GOVERNING THE TEST OF ANTI-SATELLITE WARHEADS

Sec. 205.[5] * * *

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TITLE III—OPERATION AND MAINTENANCE

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SALE OF ARTICLES MANUFACTURED BY CERTAIN ARSENALS; ASSET CAPITALIZATION PROGRAM

Sec. 305.[6] * * *

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SENSE OF CONGRESS CONCERNING INTRODUCTION OF UNITED STATES ARMED FORCES INTO CENTRAL AMERICA FOR COMBAT

Sec. 310.[7] (a) The Congress makes the following findings:

(1) The President has stated that there is no need to introduce United States Armed Forces into Central America for combat and that he has no intention of doing so.

(2) The President of El Salvador has stated that there is no need for United States Armed Forces to conduct combat operations in El Salvador and that he has no intention of asking that they do so.

(3) The possibility of the introduction of United States Armed Forces into Central America for combat raises very grave concern in the Congress and the American people.

(b) It is the sense of Congress that—

[5] Sec. 205 amended sec. 1235 of the Department of Defense Authorization Act, 1984.

[6] Sec. 305 added a new sec. 2208(i) to title 10, United States Code, concerning the sale of articles manufactured by certain arsenals (redesignated as sec. 4543).

[7] 50 U.S.C. 1541 note.

(1) United States Armed Forces should not be introduced into or over the countries of Central America for combat; and

(2) if circumstances change from those present on the date of the enactment of this Act and the President believes that those changed circumstances require the introduction of United States Armed Forces into or over a country of Central America for combat, the President should consult with Congress before any decision to so introduce United States Armed Forces and any such introduction of United States Armed Forces must comply with the War Powers Resolution.

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TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

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PERSONAL VEHICLES OF UNITED STATES MILITARY PERSONNEL IN JAPAN

Sec. 653. (a) The Congress finds that—

(1) the Government of Japan does not permit members of the Armed Forces of the United States to take their motor vehicles into Japan for their personal use while assigned to a duty station in Japan unless such vehicles are modified to satisfy certain requirements of the Government of Japan;

(2) as a result of the restriction referred to in clause (1), members of the Armed Forces typically need to sell their personal motor vehicles before departing the United States to report to a duty station in Japan, to purchase vehicles in Japan for personal use while stationed in Japan, to sell such purchased vehicles before departing Japan to return to the United States, and to purchase vehicles in the United States upon their return;

(3) members of the Armed Forces incur a substantial financial burden in connection with the repeated sale and replacement of personal vehicles;

(4) the United States permits members of the Armed Forces of foreign nations to bring unmodified vehicles into the United States for their personal use while assigned to duty stations in the United States; and

(5) the United States provides a substantial contribution to the defense of Japan and the waters surrounding Japan.

(b) Considering the findings set out in subsection (a), it is the sense of the Congress that the President, acting through the Secretary of Defense and the Secretary of State, should enter into negotiations with the Government of Japan for the purpose of obtaining the agreement of such government not to require the modification of the personal motor vehicles of members of the Armed Forces of the United States brought into Japan for the personal use while stationed in Japan.

(c) Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense and the Secretary of State shall transmit to the Congress a written report relating to the matters described in subsection (a). The report shall include—

(1) a description of any negotiations carried out with the Government of Japan; and

(2) a description of the other actions the Government of the United States can reasonably take to obtain an agreement described in subsection (b).

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TITLE X—MATTERS RELATING TO NATO AND OTHER ALLIES

SENSE OF CONGRESS RELATING TO INCREASE IN DEFENSE SPENDING BY UNITED STATES ALLIES

Sec. 1001.[8] It is the sense of Congress that the President—

(1) should call on the pertinent member nations of the North Atlantic Treaty Organization to meet or exceed their pledges for an annual increase in defense spending during fiscal years 1984 and 1985 of at least 3 percent real growth; and

(2) should call on Japan to further increase its defense spending during fiscal years 1984 and 1985;

in furtherance of increased unity; equitable sharing of the common defense burden, and international stability.

IMPROVEMENTS TO NATO CONVENTIONAL CAPABILITY

Sec. 1002.[8] (a) The Congress finds—

(1) that the North Atlantic Treaty Organization (NATO) should improve its conventional defense capability so as to lengthen the period of time that Western Europe can be defended by conventional forces without the necessity of resorting to the early use of nuclear weapons in the event of a non-nuclear attack on any NATO member country;

(2) that fulfillment by NATO member nations of their goals and commitments to increase defense spending, improve conventional sustainability, and provide support facilities in Western Europe for rapid reinforcements from the United States is crucial to accomplishing that objective; and

(3) that an increase over current United States military personnel levels in European member nations of NATO can be justified only if these goals and commitments are substantially met by NATO member nations (other than the United States).

(b) The Congress urges the President and the Secretary of Defense to continue to encourage member nations of NATO (other than the United States) to work expeditiously to fulfill the following commitments they have undertaken:

(1) To achieve and maintain an annual increase in their defense spending of at least 3 percent after inflation.

(2) To acquire a 30-day supply of air and ground munitions among those NATO members which have committed forces to the Northern, Center, and Southern Regions.

[8] 22 U.S.C. 1928 note. See also sec. 1046—Defense Cost-Sharing—in Public Law 102–190 (105 Stat. 1466).

(3) To construction of the number of minimum essential and emergency operating facilities and semihardened aircraft shelters in Western Europe required by NATO Ministerial Guidance to support, under NATO/SHAPE standards, as a minimum, the annual commitment of United States reinforcing tactical aircraft.

(c)[9] (1) The end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of the North Atlantic Treaty Organization may not exceed a permanent ceiling of approximately 100,000 in any fiscal year.

(2) If the Secretary of Defense certifies to the Congress in writing during any fiscal year after fiscal year 1985 that during the previous fiscal year the member nations of NATO (other than the United States) have undertaken significant measures to improve their conventional defense capacity consistent with the goals set forth in subsection (b) which contributes to lengthening the time period between an armed attack on any NATO country and the time the Supreme Allied Commander, Europe, would have to request the release and use of nuclear weapons, the Congress would give strong consideration to authorizing an increase in the permanent ceiling prescribed in paragraph (1) for fiscal years after such fiscal year.

(3)[10] For purposes of this subsection, the following members of the Armed Forces are excluded in calculating the end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO:

(A) Members assigned to permanent duty ashore in Iceland, Greenland, and the Azores.

(B) Members performing duties in Europe for more than 179 days under a military-to-military contact program under section 168 of title 10, United States Code.

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[9] Sec. 1303(a) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2889) amended and restated subsec. (c)(1), effective October 1, 1995. The paragraph formerly read as follows, as amended:

"(c)(1) No appropriated funds may be used to support an end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO at any level exceeding a permanent ceiling of 235,700. The Secretary of Defense may exceed such permanent ceiling in any year by a number equal to not more than ½ of 1 percent for the purpose of achieving sound management in the rotation of members of the Armed Forces of the United States to and from assignment to permanent duty ashore in European member nations of NATO, but only if the Secretary determines that the increase in such year is necessary for such purpose. In any fiscal year for which the permanent ceiling specified in the first sentence of this subsection is 235,700, the President may authorize an end strength level of members of the Armed Forces assigned to permanent duty ashore in European member nations of the North Atlantic Treaty Organization at a level not to exceed 261,855 if the President determines that the national security interests of the United States require such authorization. Whenever the President exercises the authority provided under the preceding sentence, the President shall notify Congress of that determination and of the necessity for exceeding such permanent ceiling.".

The paragraph had been previously amended by sec. 1101 of the Department of Defense Authorization Act of 1986 (Public Law 99–145; 99 Stat. 707); sec. 911 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1523); sec. 406 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1546); and sec. 1042(a) and (b) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1462);

[10] Sec. 1303(b) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2889) added para. (3). It was amended and restated by sec. 1334(a) of Public Law 104–106 (110 Stat. 484).

(d)[11] * * * [Repealed—1999]

(e)(1) The Congress finds that a viable "two-way street" of defense procurement improves NATO interoperability and therefore is important to overall improvements in conventional defense.

(2)(A) In addition to any funds appropriated pursuant to the authorization contained in section 201 for the activities of the Director of Test and Evaluation, Defense, the Director may use an additional amount, not to exceed $50,000,000, to acquire certain types of weapons, subsystems, and munitions of European NATO manufacture for side-by-side testing with comparable United States manufactured items. Such additional amount shall be derived from any funds appropriated pursuant to an authorization contained in this Act. (Items that may be acquired under this paragraph include submunitions and dispensers, anti-tank and anti-armor guided missiles, mines, runway-cratering devices, torpedoes, mortar systems, light armored vehicles, and high-velocity anti-tank guns.)

(f)(1) This section shall not apply in the event of a declaration of war or an armed attack on any NATO member country.

(2) This section may be waived by the President if he declares an emergency and immediately informs the Congress of his action and the reasons therefor.

REPORT ON ALLIED CONTRIBUTIONS TO THE COMMON DEFENSE

Sec. 1003.[12] (a) In recognition of the increasing military threat faced by the Western World and in view of the growth, relative to the United States, in the economic strength of Japan, Canada, and a number of Western European countries which has occurred since the signing of the North Atlantic Treaty on April 4, 1949, and the Mutual Cooperation and Security Treaty between Japan and the United States on January 19, 1960, it is the sense of the Congress that—

(1) the burdens of mutual defense now assumed by some of the countries allied with the United States under those agreements are not commensurate with their economic resources;

(2) since May 1978, when each member nation of the North Atlantic Treaty Organization (NATO) agreed to increase real defense spending annually in the range of 3 percent, most NATO members, except for the United States, have failed to meet the 3 percent real growth commitment consistently;

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[11] Repealed by sec. 1032(b)(4) of Public Law 106–65 (113 Stat. 751), sec. 1002(d) had required an annual report from the Secretary of Defense on NATO supplies, facilities, and semihardened aircraft shelters as they related to the United States commitment of reinforcing aircraft in the United States Defense Planning Questionnaire (DPQ) Response.

[12] 22 U.S.C. 1928 note. Sec. 324 of Public Law 102–484 (106 Stat. 2367) provided the following:

"SEC. 324. OVERSEAS ENVIRONMENTAL RESTORATION.

"(a) SENSE OF CONGRESS.—It is the sense of the Congress that in carrying out environmental restoration activities at military installations outside the United States, the President should seek to obtain an equitable division of the costs of environmental restoration with the nation in which the installation is located.

"(b) REPORT.—The Secretary of Defense shall include in each Report on Allied Contributions to the Common Defense prepared under section 1003 of Public Law 98–525 (22 U.S.C. 1928) information, in classified and unclassified form, describing the efforts undertaken and the progress made by the President in carrying out subsection (a) during the period covered by the report.".

(3) since May 1981, when the Government of Japan established its policy to defend the air and sea lines of communication out to 1,000 nautical miles from the coast of Japan, progress to develop the necessary self-defense capabilities to fulfill that pledge has been extremely disappointing;

(4) Japan is the ally of the United States with the greatest potential for improving its self-defense capabilities and should, therefore, rapidly increase its annual defense spending to the levels required to fulfill that pledge and to enable Japan to be capable of an effective conventional self-defense capability by 1990, including the capability to carry out its 1,000-mile defense policy, a development that would be consonant not only with Japan's current prominent position in the family of nations but also with its unique sensibilities on the issues of war and peace, sensibilities that are recognized and respected by the people of the United States; and

(5) the continued unwillingness of such countries to increase their contributions to the common defense to more appropriate levels will endanger the vitality, effectiveness, and cohesion of the alliances between those countries and the United States.

(b) It is further the sense of the Congress that the President should seek from each signatory country (other than the United States) of the two treaties referred to in subsection (a) acceptance of international security responsibilities and an agreement to make contributions to the common defense which are commensurate with the economic resources of such country, including, when appropriate, an increase in host nation support.

(c)[13] The Secretary of Defense shall submit to the Congress by March 1, 1998, and every other year thereafter, not later than April 1,[14] a classified report containing—

(1) a comparison of the fair and equitable shares of the mutual defense burdens of these alliances that should be borne by the United States, by other member nations of NATO, and by Japan based upon economic strength and other relevant factors, and the actual defense efforts of each nation together with an explanation of disparities that currently exist and their impact on mutual defense efforts;

(2) a description of efforts by the United States and the efforts of other members of the alliances to eliminate any existing disparities;

(3) projected estimates of the real growth in defense spending for the fiscal year in which the report is submitted for each NATO member nation;

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[13] Sec. 1412(c) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1829) provided the following:

"(c) FINDING AND SENSE OF CONGRESS.—(1) The Congress finds that the Secretary of Defense did not submit to Congress in a timely manner the report on allied contributions to the common defense required under section 1003(c) of the National Defense Authorization Act, 1985 (Public Law 98–525; 22 U.S.C. 1928 note), to be submitted not later than April 1, 1993.

"(2) It is the sense of Congress that the timely submission of such report to Congress each year is essential to the deliberation by Congress concerning the annual defense program.".

[14] Sec. 1312(c)(3) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1670) struck out "March 1" and inserted in lieu thereof "April 1". Subsequently, sec. 1084(e) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2675) struck out "each year", and inserted in lieu thereof "by March 1, 1998, and every other year thereafter".

(4) a description of the defense-related initiatives undertaken by each NATO member nation within the real growth in defense spending of such nation in the fiscal year immediately preceding the fiscal year in which the report is submitted;

(5) an explanation of those instances in which the commitments to real growth in defense spending have not been realized and a description of efforts being made by the United States to ensure fulfillment of these important NATO commitments;

(6) a description of the activities of each NATO member and Japan to enhance the security and stability of the Southwest Asia region and to assume additional missions for their own defense as the United States allocates additional resources to the mission of protecting Western interests in world areas not covered by the system of Western Alliances; and

(7) a description of what additional actions the executive branch plans to take should the efforts by the United States referred to in clauses (2) and (5) fail, and, in those instances where such additional actions do not include consideration of the repositioning of American troops, a detailed explanation as to why such repositioning is not being so considered.

(d) The Secretary of Defense shall also submit to the Congress not more than 30 days after the submission of the report required under subsection (a) an unclassified report containing the matters set forth in clauses (1) through (7) of such subsection.

NATO SEASPARROW COOPERATIVE PROGRAM

Sec. 1004. The Secretary of the Navy is authorized to continue participation, in accordance with current operating procedures, in the North Atlantic Treaty Organization SEASPARROW Surface Missile System Cooperative Consortium, as described in the Memorandum of Understanding between the United States, Denmark, Norway, Italy, the Netherlands, Belgium, Canada, Greece, and Federal Republic of Germany, signed by the United States on June 6, 1968, and the Memorandum of Understanding between the same countries, signed by the United States on May 20, 1977.

PROCUREMENT OF COMMUNICATIONS SUPPORT AND RELATED SUPPLIES AND SERVICES

Sec. 1005.[15] * * *

POLICY ON ARMAMENTS COOPERATION WITH NATO MEMBER COUNTRIES

Sec. 1006. Not later than May 1, 1985, the Secretary of Defense shall transmit to Congress a report setting forth a comprehensive proposal by which the United States and NATO member countries may achieve the objectives described in section 1122(b) of the Department of Defense Authorization Act, 1983 (Public Law 97–252; 96 Stat. 755).

[15] Sec. 1005 added a new sec. 2401a to 10 U.S.C. (redesignated as sec. 2350f).

AUTHORITY OF SECRETARY OF DEFENSE IN CONNECTION WITH COOPERATIVE AGREEMENTS ON AIR DEFENSE IN CENTRAL EUROPE

Sec. 1007. (a) During fiscal year 1985, the Secretary of Defense may carry out the European air defense agreements. In carrying out those agreements during that year, the Secretary—

(1) may provide without monetary charge to the Federal Republic of Germany articles and services as specified in the agreements; and

(2) may accept from the Federal Republic of Germany (in return for the articles and services provided under paragraph (1)) articles and services as specified in the agreements.

(b) In connection with the administration of the European air defense agreements during fiscal year 1985, the Secretary of Defense may—

(1) waive any surcharge for administrative services otherwise chargeable under section 21(e)(1)(A) of the Arms Export Control Act (22 U.S.C. 2761(e)(1)(A));

(2) waive any charge not otherwise waived for services associated with contract administration for the sale under the Arms Export Control Act of Patriot air defense missile fire units to the Federal Republic of Germany contemplated in the agreements;

(3) use, to the extent contemplated in the agreements, the NATO Maintenance and Supply Agency (A) for the supply of logistic support in Europe for the Patriot missile system, and (B) for the acquisition of such logistic support, to the extent that the Secretary determines that the procedures of that agency governing such supply and acquisition are appropriate;

(4) share, to the extent contemplated in the agreements, the costs of set-up charges of facilities for use by that agency to perform depot-level support of Patriot missile fire units in Europe; and

(5) deliver to the Federal Republic of Germany one Patriot missile fire unit configured for training, to be purchased by the Federal Republic of Germany under the Arms Export Control Act as contemplated in the agreements, without regard to the requirement in section 22 of that Act (22 U.S.C. 2762) for payment in advance of delivery for any purchase under that Act.

(c) Notwithstanding the rate required to be charged under section 21 of the Arms Export Control Act for services furnished by the United States, in the case of the 14 Patriot missile fire units which the Federal Republic of Germany purchases from the United States under that Act as contemplated in the European air defense agreements, the rate charged by the Secretary of Defense for packing, crating, handling, and transportation services associated with that purchase may not exceed the established Department of Defense rate for such services.

(d) For the purposes of this section, the term "European air defense agreements" means (1) the agreement entitled "Agreement between the Secretary of Defense of the United States of America and the Minister of Defense of the Federal Republic of Germany on Cooperative Measures for Enhancing Air Defense for Central Europe", signed on December 6, 1983, and (2) the agreement entitled

"Agreement between the Secretary of Defense of the United States of America and the Federal Minister of Defense of the Federal Republic of Germany in implementation of the 6 December 1983 Agreement on Cooperative Measures for Enhancing Air Defense for Central Europe", signed on July 12, 1984.

(e) The authority of the Secretary of Defense to enter into contracts under the European air defense agreements is available only to the extent that appropriated funds are otherwise available for that purpose.

TITLE XI—MATTERS RELATING TO ARMS CONTROL [16]

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TITLE XV—GENERAL PROVISIONS

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PART B—PROVISIONS RELATING TO SPECIFIC PROGRAMS

CHEMICAL WARFARE REVIEW COMMISSION

Sec. 1511. (a) The President shall establish a bipartisan commission to be known as the "Chemical Warfare Review Commission". The Commission shall review the overall adequacy of the chemical warfare posture of the United States with particular emphasis on the question of whether the United States should produce binary chemical munitions, and shall report its findings and recommendations to the President not later than April 1, 1985. In developing its recommendations, the Commission shall consider—

(1) the relationship of chemical stockpile modernization by the United States with the ultimate goal of the United States of achieving a multilateral, comprehensive, and verifiable ban on chemical weapons;

(2) the adequacy of the existing United States stockpile of unitary chemical weapons in providing a credible deterrent to use by the Soviet Union of chemical weapons against United States and allied forces;

(3) whether the binary chemical modernization program proposed by the Department of Defense is adequate to support United States national security policy by posing a credible deterrent to chemical warfare; and

(4) the ability of defensive measures alone to meet the Soviet chemical warfare threat and the adequacy of funding for current and projected defensive measure programs.

(b) The President shall submit to Congress the report of the Commission, together with the President's comments on the report, not later than April 1, 1985.

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PART C—MISCELLANEOUS DEFENSE REPORTING REQUIREMENTS

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[16] For text, see *Legislation on Foreign Relations Through 2004*, vol. II, sec. F.

STUDY OF FOREIGN SALES AND PROCUREMENT OF DEFENSE ARTICLES

Sec. 1522. (a)(1) The Secretary of Defense, in consultation with the heads of other appropriate Federal agencies, shall carry out a study to assess how the adequacy of the industrial base of the United States in the event of a war or national emergency is affected—

(A) by procurement by the Department of Defense of defense articles that are produced outside the United States or that are assembled from components, or fabricated from materials, produced outside the United States; and

(B) by sales by the Department of Defense or commercial manufacturers of defense articles manufactured in the United States to purchasers outside the United States.

(2) For the purposes of this section, the term "foreign-component defense article" means a defense article—

(A) that was produced outside the United States;

(B) that was assembled from over 50 percent components, or fabricated from over 50 percent materials, produced outside the United States; or

(C) that contains a major component that was produced outside the United States.

(b) The study under subsection (a) shall assess the effects of restrictions on the procurement of foreign-component defense articles on the overall United States balance of trade, on the balance of trade in defense articles, on treaties currently in effect, on the budgetary cost of national defense, on existing memoranda of understanding, on United States military alliances, and on efforts to increase the rationalization, standardization, and interoperability of articles used by North Atlantic Treaty Organizations forces.

(c) Restrictions to be considered for the purposes of subsection (b) shall include—

(1) a prohibition on procurement of foreign-component defense articles;

(2) a prohibition on procurement of a defense article (or a major component of a defense article) from a foreign source unless there is also a domestic producer of the article;

(3) a prohibition on procurement of defense articles (and major components of defense articles) from a country with which the United States has an unfavorable balance of trade in defense articles; and

(4) a prohibition on procurement of a defense article (or a major component of a defense article) from a foreign source of more than 50 percent of the total quantity of the defense article (or major component) to be procured.

(d) The study under subsection (a) shall consider circumstances and requirements under a war or national emergency of both a brief duration and a long duration.

(e) A report of the study under subsection (a) shall be submitted to the Committees on Armed Services of the Senate and House of Representatives[17] not later than October 15, 1985.

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REPORT ON AMERICANS UNACCOUNTED FOR OR MISSING IN INDOCHINA

Sec. 1525. (a) The Congress finds that—

(1) the President has declared that the issue of the 2,483 Americans missing or otherwise unaccounted for the Indochina is an issue of the highest national priority and has initiated high level discussions with the Governments of the Lao People's Democratic Republic and the Socialist Republic of Vietnam on the issue;

(2) the Congress, on a bipartisan basis, fully supports these initiatives and realizes that the fullest possible accounting of those Americans can only be achieved with the cooperation of those governments;

(3) the Government of the Lao People's Democratic Republic has recently taken positive actions to assist the United States Government in resolving the status of those missing Americans; and

(4) the Government of the Socialist Republic of Vietnam has pledged to cooperate with the Government of the United States in resolving this humanitarian issue, separate from other issues dividing the two countries.

(b) The Congress strongly urges the President—

(1) to ensure that officials of the United States Government conscientiously and fully carry out the pledge of the President to commit the full resources of the United States Government to resolve the issue of the 2,483 Americans still missing or otherwise unaccounted for in Indochina;

(2) to pursue vigorously all reports concerning sightings of live Americans who may be among those missing or otherwise unaccounted for in Indochina;

(3) to work to achieve the fullest possible accounting of all Americans missing or otherwise unaccounted for in Indochina;

(4) to seek the immediate return of the remains of all Americans who have died in Indochina and whose remains have not been returned; and

(5) to make every effort to secure the further cooperation of the Lao People's Democratic Republic and the Socialist Republic of Vietnam in resolving this humanitarian issue of fundamental importance.

(c) The Congress calls upon the Socialist Republic of Vietnam and the Lao People's Democratic Republic to accelerate cooperation with the United States in achieving the fullest possible accounting for Americans still missing in Indochina.

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[17] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. The Committee on National Security subsequently returned to the name "Committee on Armed Services"; see sec. 1067 of Public Law 106–65 (113 Stat. 774).

(d) Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report detailing actions being taken by the United States Government described in subsection (b).

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PART D—MISCELLANEOUS DEFENSE-RELATED MATTER

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AUTHORIZATION FOR SECRETARY OF DEFENSE TO TRANSPORT HUMANITARIAN RELIEF SUPPLIES TO FOREIGN COUNTRIES [18]

Sec. 1540. (a) Notwithstanding any other provision of law, during fiscal year 1987,[19] the Secretary of Defense may transport on a space available basis, at no charge, to any country in any area of the world [18] goods and supplies which have been furnished by a nongovernmental source and which are intended for humanitarian assistance.

(b)(1) The President shall institute procedures, including complete inspection prior to acceptance for transport, for determining that—

(A) the transport of any goods and supplies transported under this section is consistent with foreign policy objectives;

(B) the goods and supplies to be transported are suitable for humanitarian purposes and are in usable condition;

(C) there is a legitimate humanitarian need for such goods and supplies;

(D) the goods and supplies will in fact be used for humanitarian purposes; and

(E) there are adequate arrangements for the distribution of such goods and supplies in the country of destination.

(2) Goods and supplies determined not to meet the criteria of paragraph (1) may not be transported under this section.

(3) It shall be the responsibility of the donor to ensure that goods or supplies to be transported under this section are suitable for transport.

(c) Goods and supplies transported under this section may be distributed by an agency of the United States Government, a foreign government, or international organization, or a private nonprofit relief organization. The Secretary of Defense may not accept any goods or supplies for transportation under this section unless verification of adequate arrangements has been received in advance for distribution of such goods and supplies.

(d) Goods or supplies transported under this section may not be distributed, directly or indirectly, to any individual, group, or organization engaged in military or paramilitary activity.

(e) No later than 90 days after the date of the enactment of this section, and every 60 days thereafter, the Secretary of State shall report to the Congress concerning the origin, contents, destination,

[18] Sec. 306(a) and (b) of the Department of Defense Authorization Act, 1986 (Public Law 99–145; 99 Stat. 617), amended sec. 1540(a) and the caption above it by authorizing transport to "foreign countries" or to "any area of the world" in lieu of "Central America".

[19] Sec. 332 of Public Law 99–661 (100 Stat. 3857) struck out "fiscal years 1985 and 1986" and inserted in lieu thereof "fiscal year 1987".

and disposition of all goods and supplies transported under this section.

PART E—OTHER MISCELLANEOUS MATTERS

SURVIVORS OF THE GLOMAR JAVA SEA

Sec. 1541. (a) The Congress finds that—

(1) on October 26, 1983, the United States registered oil drilling ship Glomar Java Sea was reported missing during stormy weather at its drilling site 60 miles off Hainan Island in the South China Sea and was found sunken near its drilling site on November 1, 1983;

(2) no evidence has been found of 46 of the 81 crewmen, including citizens of the United States, or of the lifeboats which, reportedly, were launched from the Glomar Java Sea, despite an intensive cooperative search involving United States military search and rescue aircraft and commercial vessels;

(3) the Chairman of the United States Coast Guard Marine Board of Investigation has concluded that it is possible that crewmembers of the Glomar Java Sea survived and drifted into waters near the coast of Vietnam; and

(4) the Government of Vietnam has refused to allow an independent search for the possible survivors to be conducted in waters within 20 miles of such coast.

(b) Considering the findings set out in subsection (a), it is the sense of the Congress that the President should, through all appropriate bilateral and multilateral channels, continue and accelerate the effort to obtain the cooperation of the Government of Vietnam in ascertaining the fate or locations of the 46 crewmen of the sunken United States registered vessel Glomar Java Sea.

POLICY REGARDING THE FURNISHING OF FOOD AND MEDICAL SUPPLIES TO AFGHANISTAN

Sec. 1542. (a) The Congress finds—

(1) that after more than four years of occupation by the military forces of the Soviet Union, the freedom-loving people of Afghanistan continue to resist the oppression of the Soviet Union;

(2) that the current Soviet Union offensive has resulted in great suffering and destruction in Afghanistan and has intensified the Soviet policy which targets civilian populations; and

(3) that this "scorched earth" policy of the Soviet Union, which has resulted in the destruction of crops, food supplies, farms, hospitals, and other public buildings in Afghanistan, has been a desperate attempt on the part of the Soviet Union to subdue the population of that country or to force the depopulation of certain areas which the occupying forces of the Soviet Union are unable to control.

(b) It is, therefore, the sense of Congress that the free world should take all appropriate steps to ensure that the people of Afghanistan have the necessary food and medical supplies adequate to sustain themselves while they are being ravaged by the invading forces of the Soviet Union.

REAFFIRMATION OF UNITED STATES POLICY TOWARD CUBA

Sec. 1543. (a) It is the policy of the Government of the United States to continue in its relations with the Government of Cuba the policy set forth in the joint resolution entitled "Joint resolution expressing the determination of the United States with respect to the situation in Cuba", approved by the President on October 3, 1962 (Public Law 87–733; 76 Stat. 697).[20]

(b) Nothing in this section shall be deemed to change or otherwise affect the standards and procedures provided in the National Security Act of 1947, the Foreign Assistance Act of 1961, or the War Powers Resolution. This section does not constitute the statutory authorization for introduction of United States Armed Forces contemplated by the War Powers Resolution.

REPORT ON USE OF CUBAN AND RUSSIAN NICKEL IN DEFENSE PROCUREMENTS

Sec. 1544. Not later than April 1, 1985, the Secretary of Defense shall submit to Congress a report on the effects on the national security of the United States of procurement by the Department of Defense of products containing nickel produced in Cuba or the Soviet Union. The report shall be prepared after consultation with the Secretaries of Commerce, the Interior, and the Treasury.

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TITLE XVII—UNITED STATES INSTITUTE OF PEACE[21]

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[20] For text, see *Legislation on Foreign Relations Through 2004*, vol. II, sec. G.

[21] Title XVII, cited as the United States Institute of Peace Act, can be found in *Legislation on Foreign Relations Through 2004*, vol. II, sec. D.

dd. Department of Defense Authorization Act, 1984

Partial text of Public Law 98–94 [S. 675], 97 Stat. 614, approved September 24, 1983; as amended by Public Law 98–525 [Department of Defense Authorization Act, 1985; H.R. 5167], 98 Stat. 2492 at 2574, approved October 19, 1984; and by Public Law 100–456 [National Defense Authorization Act, Fiscal Year 1989; H.R. 4481], 102 Stat. 1918, approved September 29, 1988

AN ACT To authorize appropriations for fiscal year 1984 for the Armed Forces for procurement, for research, development, test, and evaluation, and for operation and maintenance, to prescribe personnel strengths for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, to authorize appropriations for such fiscal year for civil defense, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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TITLE XI—NATO AND RELATED MATTERS

NORTH ATLANTIC DEFENSE COOPERATIVE PROGRAMS

Sec. 1101. In order to fulfill the international obligations incurred by the United States under the North Atlantic Treaty Organization's Long-Term Defense Program for the rapid reinforcement of Europe, and recognizing that such action is in the national interest of the United States, the Secretary of Defense shall carry out commitments of the United States under the United States-German Wartime Host Nation Support Agreement of April 15, 1982, and under the Prepositioned Materiel Configured in Unit Sets (POMCUS) program by the earliest practicable date. The Secretary of Defense shall include in his annual report to the Congress a statement describing the status of implementation of such agreement and program, including his assessment of whether our allies are bearing their equitable share under such agreement and program and whether the implementation of such agreement and program adversely affects the readiness of the reserve components of the Armed Forces of the United States.

REPORT ON ALLIED CONTRIBUTIONS TO THE COMMON DEFENSE

Sec. 1102.[1] (a) In recognition of the increasing military threat faced by the Western World and in view of the growth, relative to the United States, in the economic strength of Japan, Canada, and a number of Western European countries which has occurred since the signing of the North Atlantic Treaty on April 4, 1949, and the Mutual Cooperation and Security treaty between Japan and the United States on January 19, 1960, it is the sense of the Congress that—

[1] 22 U.S.C. 1928 note.

(1) the burdens of mutual defense now assumed by some of the countries allied with the United States under those agreements are not commensurate with their economic resources;

(2) since May 1978, when each NATO member nation agreed to increase real defense spending annually in the range of 3 percent, most NATO members, except for the United States, have failed to meet the 3 percent real growth commitment consistently and performance toward this goal in 1983 is estimated to be the most deficient, on average, since the goal was established;

(3) since May 1981, when the Government of Japan established its policy to defend the air and sea lines of communication out to 1,000 nautical miles from the coast of Japan, progress to develop the necessary self-defense capabilities to fulfill that pledge has been extremely disappointing;

(4) Japan is the ally of the United States with the greatest potential for improving its self-defense capabilities and should, therefore, rapidly increase its annual defense spending to the levels required to fulfill that pledge and to enable Japan to be capable of an effective conventional self-defense capability by 1990, including the capability to carry out its 1,000-mile defense policy, a development that would be consonant not only with Japan's current prominent position in the family of nations but also with its unique sensibilities on the issues of war and peace, sensibilities that are recognized and respected by the people of the United States; and

(5) the continued unwillingness of such countries to increase their contributions to the common defense to more appropriate levels will endanger the vitality, effectiveness, and cohesiveness of the alliances between those countries and the United States.

(b) It is further the sense of the Congress that the President should seek from each signatory country (other than the United States) of the two treaties referred to in subsection (a) acceptance of international security responsibilities and an agreement to make contributions to the common defense which are commensurate with the economic resources of such country, including, when appropriate, an increase in host nation support.

(c)(1) The Secretary of Defense shall submit to the Congress not later than March 1, 1984, a classified report containing—

(A) a comparison of the fair and equitable shares of the mutual defense burdens of these alliances that should be borne by the United States, by other member nations of the North Atlantic Treaty Organization (NATO), and by Japan, based upon economic strength and other relevant factors, and the actual defense efforts of each nation together with an explanation of disparities that currently exist and their impact on mutual defense efforts;

(B) a description of efforts by the United States and of other efforts to eliminate existing disparities;

(C) estimates of the real growth in defense spending in fiscal year 1983 projected for each NATO member nation compared with the annual real growth goal in the range of 3 percent set in May 1978;

(D) a description of the defense-related initiatives undertaken by each NATO member nation within the real growth in defense spending of such nation in fiscal year 1984;

(E) an explanation of those instances in which the commitments to real growth in defense spending have not been realized and a description of efforts being made by the United States to ensure fulfillment of these important NATO commitments;

(F) a description of the activities of each NATO member and Japan to enhance the security and stability of the Southwest Asia region and to assume additional missions for their own defense as the United States allocates additional resources to the mission of protecting Western interests in world areas not covered by the system of Western Alliances; and

(G) a description of what additional actions the executive branch plans to take should the efforts by the United States referred to in clauses (B) and (E) fail, and, in those instances where such additional actions do not include consideration of the repositioning of American troops, a detailed explanation as to why such repositioning is not being so considered.

(2) The Secretary of Defense shall also submit to the Congress not more than 30 days after the submission of the report required under paragraph (1) an unclassified report containing the matters set forth in clauses (A) through (G) of such paragraph.

LIMITATION ON NUMBER OF MILITARY PERSONNEL STATIONED IN EUROPE

Sec. 1103. (a) Except as provided in subsections (b) and (c), none of the funds authorized to be appropriated by this or any other Act may be used for the purpose of supporting an end-strength level, as of September 30, 1984, of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of the North Atlantic Treaty Organization (NATO) at any level in excess of 315,600.

(b) A number of United States military personnel in excess of 315,600, but not in excess of 320,000, may be permanently assigned to duty ashore in such European nations as of September 30, 1984, if—

(1) the Secretary of Defense determines and certifies to the Congress in writing that on September 30, 1984, the total number of military personnel of NATO member nations, other than the United States, stationed in the Federal Republic of Germany will not be less than the total number of military personnel of such member nations stationed in that country on the date of the enactment of this Act;

(2) the Secretary of Defense certifies to the Congress in writing on or after June 1, 1984, that the budget for the Department of Defense for fiscal year 1985 and the Five-Year Defense Plan of the Department of Defense for fiscal years 1985 through 1989 give significant priority to programs directly intended to improve NATO's conventional capabilities, particularly its capability for deep interdiction;

(3) the Department of Defense has conducted a thorough and detailed analysis of the United States force and support structure in Europe which the Secretary of Defense submits to Congress on or after June 1, 1984, with his certification in writing that a number of United States military personnel in excess of 315,600 is required to meet the United States commitment to NATO; and

(4) the studies required by sections 1104 through 1107 have been conducted and the reports and recommendations resulting from such studies have been submitted to the Congress.

(c) A number of United States military personnel in excess of 315,600 or in excess of 320,000 may be assigned to permanent duty ashore in European member nations of NATO as of September 30, 1984, without the conditions specified in subsection (b) having been met if the President (1) determines and certifies to the Congress in writing that overriding national security interests require a number of such personnel to be assigned to permanent duty ashore in such nations in excess of 315,600 or 320,000, as the case may be, and (2) includes in the certification the total number of such personnel required and an explanation of the overriding national security interests that require such number of personnel.

(d) In computing the limitation specified in subsections (a) and (b), there may be excluded not more than 2,600 military personnel assigned to the Ground Launched Cruise Missile program and the Pershing II Missile program.

REPORT ON IMPROVEMENT OF CONVENTIONAL FORCES OF NATO

Sec. 1104. (a) At the same time the President submits the budget for fiscal year 1985 pursuant to section 1105 of title 31, United States Code, but not later than May 1, 1984, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives[2] a comprehensive report and plan for improving conventional defense capabilities of the North Atlantic Treaty Organization (NATO). The Secretary shall include in such report—

(1) his recommendations on how NATO's strategy and military program could and should be changed to improve substantially the chances of a successful conventional defense of Europe;

(2) a statement and explanation of what the aggregate NATO conventional defense requirements are;

(3) a current assessment and statement of the status of the Air-Land Battle concept within the Department of Defense and NATO;

(4) an explanation of how and to what extent the various doctrines of NATO military forces are coordinated, and how variations in doctrine can be rectified or exploited to NATO's advantage;

[2] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. The Committee on National Security subsequently returned to the name "Committee on Armed Services"; see sec. 1067 of Public Law 106–65 (113 Stat. 774).

(5) his judgment on the most effective means by which NATO military forces can be operationally integrated to implement the Air-Land Battle concept;

(6) the United States programs which are necessary to support improved NATO conventional capabilities, the changes which are needed, and what the fiscal year 1985 budget and Five-Year Defense Plan of the Department of Defense for fiscal years 1985 through 1989 provide for with respect to NATO conventional capabilities;

(7) the United States conventional programs and weapons that are provided for in the fiscal year 1985 budget and Five-Year Defense Plan of the Department of Defense for fiscal years 1985 through 1989 to enhance the disruption and destruction of Soviet follow-on echelons as well as fixed-site military targets;

(8) the new weapons or systems which are available for such purpose that are not in the current budget or Five-Year Defense Plan of the Department of Defense;

(9) a determination of what are the achievable NATO-wide improvements in conventional defense capability; and

(10) a separate addendum and assessment by the Supreme Allied Commander, Europe, on measures necessary to improve NATO conventional defense capabilities including a recommended plan for such measures.

(b) The President shall submit to the Congress not later than June 1, 1984, his recommendations and plan for improving NATO conventional defense capabilities.

REPORT ON THE NUCLEAR POSTURE OF NATO

Sec. 1105. (a) The Secretary of Defense shall conduct a study on the tactical nuclear posture of the North Atlantic Treaty Organization (NATO) and submit a report on the results of such study to the Committees on Armed Services of the Senate and the House of Representatives[3] not later than May 1, 1984. Such study shall include—

(1) a detailed assessment of the current tactical nuclear balance in Europe and that projected for 1990;

(2) an assessment of the current, respective operational doctrines for the use of tactical nuclear weapons in Europe of the Warsaw Pact and NATO;

(3) an explanation of how the threat of the use of such weapons relates to deterrence and to conventional defense;

(4) an identification of the number and types of nuclear warheads, if any, considered to be inessential to the defense structure of Western Europe, the quantity and type of such weapons that could be eliminated from Europe under appropriate circumstances without jeopardizing the security of NATO nations and an assessment of what such circumstances might be;

[3] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. The Committee on National Security subsequently returned to the name "Committee on Armed Services"; see sec. 1067 of Public Law 106–65 (113 Stat. 774).

(5) an explanation of the steps that can be taken to develop a rational and coordinated nuclear posture by NATO in a manner that is consistent with proper emphasis on conventional defense forces; and

(6) an identification of any notable, relevant developments that have occurred since the submission to the Congress in April 1975 of the report entitled "The Theater Nuclear Force Posture in Europe", prepared by the Secretary of Defense pursuant to section 302 of the Department of Defense Appropriation Authorization Act, 1975 (Public Law 93–365), which might cause the findings and conclusions of that report to require revision and such revisions in such report as the Secretary considers appropriate.

(b) The President shall submit a written report to the Congress on or before June 1, 1984, containing his views on the Department of Defense study and report required under subsection (a) together with such recommendations with respect to such study and report as he considers appropriate.

REPORT ON COMBAT-TO-SUPPORT RATIO OF UNITED STATES FORCES IN EUROPE IN SUPPORT OF NATO

Sec. 1106. (a) The Secretary of Defense shall submit a report to the Committees on Armed Services of the Senate and House of Representatives[3] not later than May 1, 1984, on the combat, combat support, combat service support, and noncombat components of the Armed Forces of the United States assigned to permanent duty in Europe in support of the North Atlantic Treaty Organization (NATO). The Secretary shall include in such report—

(1) an analysis of the historical (since 1974), current, and projected combat, combat support, combat service support, and noncombat components of the Armed Forces of the United States assigned to permanent duty in Europe in support of NATO and their relationship to each other;

(2) a review of the requirements for such combat, combat support, combat service support, and noncombat components; and

(3) his assessment of the current balance among units of United States combat components, combat support components, and combat service support components forward deployed in Europe and his recommendations for any changes needed to improve that balance in the future.

(b) For the purposes of the report required by subsection (a)—

(1) the combat component of the Army includes only the infantry, cavalry, artillery, armored, combat engineers, special forces, attack assault helicopter units, air defense, and missile combat units of battalion or smaller size;

(2) the combat component of the Navy includes only the combatant ships (aircraft carrier, battleship, cruiser, destroyer, frigate, submarine, and amphibious assault ships) and combat aircraft wings (fighter, attack, reconnaissance, and patrol); and

(3) the combat component of the Air Force includes only the tactical fighter, reconnaissance, tactical airlift, fighter interceptor, and bomber units of wing or smaller size.

REPORT ON UNITED STATES EXPENDITURES IN SUPPORT OF NATO

Sec. 1107. (a) The Secretary of Defense shall review and analyze the fiscal year 1983 expenditures of the Department of Defense in fulfilling the United States commitment to the North Atlantic Treaty Organization (NATO) and the expenditures projected for such purpose for each of the fiscal years 1984 through 1989.

(b)(1) The Secretary of Defense shall submit a detailed written report to the Congress not later than June 1, 1984, on the review and analysis required under subsection (a). The Secretary shall set out in such report, in current and constant fiscal year 1983 dollar figures, the expenditures made in fiscal year 1983 and expenditures projected to be made in fiscal years 1984 through 1989 by the United States in fulfilling its commitment to NATO in each of the following categories:

(A) Procurement.

(B) Operations and maintenance.

(C) Military construction.

(D) Military personnel.

(E) Research, development, test, and evaluation.

(2) The Secretary of Defense shall also include in such report a separate breakout of the fiscal year 1983 Department of Defense expenditures in each of the categories specified in paragraph (1) for the Armed Forces of the United States assigned to permanent duty ashore in the European member nations of NATO and the expenditures projected to be incurred by the Department of Defense in each of those categories in each of the fiscal years 1984 through 1989 for personnel of the Armed Forces of the United States planned to be assigned to permanent duty ashore in such nations during each of those fiscal years. The Secretary of Defense shall also include in such report similar separate breakouts for all classes of United States forces reflected in the data submitted to the Committee on Armed Services of the Senate and printed in part 1, pages 61–68, of that Committee's hearings on Department of Defense Authorization For Appropriations For Fiscal Year 1982.

(3) The Secretary of Defense shall also include in such report the estimated percentage growth in each of the five categories specified in paragraph (1) of subsection (b), after allowing for inflation, from one year to the next for the fiscal years 1983 through 1989. In the case of each category of expenditures for which the annual projected rate of expenditure growth after fiscal year 1983 exceeds 3 percent, after allowing for inflation over the previous fiscal year, the Secretary shall include his assessment of the impact on NATO of limiting the growth of expenditures in that category to 3 percent real growth.

TITLE XII—GENERAL PROVISIONS

* * * * * * *

POLICY GOVERNING THE TEST OF ANTI-SATELLITE WARHEADS

Sec. 1235.[4] (a) Notwithstanding any other provision of law, none of the funds appropriated pursuant to an authorization contained in this or any other Act may be obligated or expended to test against an object in space the miniature homing vehicle (MHV) anti-satellite warhead launched from an F–15 aircraft unless the President determines and certifies to Congress—

(1) that the United States is endeavoring, in good faith, to negotiate with the Soviet Union a mutual and verifiable agreement with the strictest possible limitations on anti-satellite weapons consistent with the national security interests of the United States;

(2) that, pending agreement on such strict limitations, testing against objects in space of the F–15 launched miniature homing vehicle anti-satellite warhead by the United States is necessary to avert clear and irrevocable harm to the national security.

(3) that such testing would not constitute an irreversible step that would gravely impair prospects for negotiations on anti-satellite weapons; and

(4) that such testing is fully consistent with the rights and obligations of the United States under the Anti-Ballistic Missile Treaty of 1972 as those rights and obligations exist at the time of such testing.

(b) During fiscal year 1985, funds appropriated for the purpose of testing the F–15 launched miniature homing vehicle anti-satellite warheads may not be used to conduct more than two successful tests of that warhead against objects in space.

(c) The limitations on the expenditure of funds provided by this section shall cease to apply 15 calendar days after the date of the receipt by Congress of the certification referred to in subsection (a).

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LIMITATION ON WAIVERS OF COST-RECOVERY REQUIREMENTS UNDER ARMS EXPORT CONTROL ACT

Sec. 1237.[5] The authority of the President under section 21(e)(2) of the Arms Export Control Act may be exercised without regard

[4] Sec. 205 of the DOD Authorization Act, 1985 (Public Law 98–525; 98 Stat. 2492 at 2509) amended and restated sec. 1235. It formerly read as follows:

"ESTABLISHING CRITERIA GOVERNING THE TEST OF ANTISATELLITE WARHEADS

"SEC. 1235. Notwithstanding any other provision of law, none of the funds appropriated pursuant to an authorization contained in this or any other Act may be obligated or expended to test any explosive or insert antisatellite warheads against objects in space unless the President determines and certifies to the Congress—

"(1) that the United States is endeavoring, in good faith, to negotiate with the Soviet Union a mutual and verifiable ban on antisatellite weapons; and

"(2) that, pending agreement on such a ban, testing of explosive or inert antisatellite warheads against objects in space by the United States is necessary to avert clear and irrevocable harm to the national security.".

[5] Although secs. 1237 and 1238 lifted these restrictions concerning certain provisions of the Arms Export Control Act as they applied during fiscal year 1983, similar restrictions were reenacted as secs. 743A and 762A of the Department of Defense Appropriation Act, 1984.

to the limitation imposed by section 770 of the Department of Defense Appropriation Act, 1983 (as contained in Public Law 97–377; 96 Stat. 1862).

WAIVER OF LIMITATION ON FOREIGN MILITARY SALES PROGRAM

Sec. 1238.[5] The Arms Export Control Act shall be administered as if section 747 of the Department of Defense Appropriation Act, 1983 (as contained in Public Law 97–377; 96 Stat. 1858) had not been enacted into law.

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ee. Department of Defense Authorization Act, 1983

Partial text of Public Law 97–252 [S. 2248], 96 Stat. 718, approved September 8, 1982

AN ACT To authorize appropriations for fiscal year 1983 for the Armed Forces for procurement, for research, development, test, and evaluation, and for operation and maintenance, to prescribe personnel strengths for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, to authorize appropriations for such fiscal year for civil defense, to authorize supplemental appropriations for fiscal year 1982, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Defense Authorization Act, 1983".

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TITLE XI—GENERAL PROVISIONS

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NATO DEFENSE INDUSTRIAL COOPERATION

Sec. 1122.[1] (a) The Congress finds that—

(1) the United States remains firmly committed to cooperating closely with its North Atlantic Treaty Organization (hereinafter in this section referred to as "NATO") allies in protecting liberty and maintaining world peace;

(2) the financial burden of providing for the defense of Western Europe and for the protection of the interests of NATO member countries in areas outside the NATO treaty area has reached such proportions that new cooperative approaches among the United States and its NATO allies are required to achieve and maintain an adequate collective defense at acceptable costs;

(3) the need for a credible conventional deterrent in Western Europe has long been recognized in theory but has never been fully addressed in practice;

(4) a more equitable sharing by NATO member countries of both the burdens and the technological and economic benefits of the common defense would do much to reinvigorate the North Atlantic Treaty Organization alliance with a restored sense of unity and common purposes;

(5) a decision to coordinate more effectively the enormous technological, industrial, and economic resources of NATO member countries will not only increase the efficiency and effectiveness of NATO military expenditures but also provide inducement for the Soviet Union to enter into a meaningful arms

[1] 22 U.S.C. 1928 note.

reduction agreement so that both Warsaw Pact countries and NATO member countries can devote more of their energies and resources to peaceful and economically more beneficial pursuits.

(b) It is the sense of the Congress that the President should propose to the heads of government of the NATO member countries that the NATO allies of the United States join the United States in agreeing—

(1) to coordinate more effectively their defense efforts and resources to create, at acceptable costs, a credible, collective, conventional force for the defense of the North Atlantic Treaty area;

(2) to establish a cooperative defense-industrial effort within Western Europe and between Western Europe and North America that would increase the efficiency and effectiveness of NATO expenditures by providing a larger production base while eliminating unnecessary duplication of defense-industrial efforts;

(3) to share more equitably and efficiently the financial burdens, as well as the economic benefits (including jobs, technology, and trade) of NATO defense; and

(4) to intensify consultations promptly for the early achievement of the objectives described in clauses (1) through (3).

STUDY OF IMPROVED CONTROL OF USE OF NUCLEAR WEAPONS

Sec. 1123. (a) The Secretary of Defense shall conduct a full and complete study and evaluation of possible initiatives for improving the containment and control of the use of nuclear weapons, particularly during crises. Such study and evaluation shall include consideration of the following:

(1) Establishment of a multi-national military crisis control center for monitoring and containing the use or potential use of nuclear weapons by third parties or terrorist groups.

(2) Development of a forum through which the United States and the Soviet Union could exchange information pertaining to nuclear weapons that could potentially be used by third parties or terrorist groups.

(3) Development of measures for building confidence between the United States and the Soviet Union for improved crisis stability and arms control, including—

(A) an improved United States/Soviet Union communications hotline for crisis control;

(B) improved procedures for verification of any arms control agreements;

(C) measures to reduce the vulnerability of command, control, and communications of both nations; and

(D) measures to lengthen the warning time each nation would have of potential nuclear attack.

(b) The Secretary of Defense shall submit a report of the study and evaluation under subsection (a) to the Committees on Armed Services and Foreign Relations of the Senate and the Committees

on Armed Services and Foreign Affairs of the House of Representatives by February 1, 1983.[2] Such report should be available in both a classified, if necessary, and unclassified format.

(c) The President shall report to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives by March 1, 1983,[2] on the merits to the arms control process of the initiatives developed under the study and evaluation required by subsection (a) and on the status of any such initiative as it may relate to any arms control negotiation with the Soviet Union.

NEGOTIATIONS FOR BANNING OF CHEMICAL WEAPONS

Sec. 1124. It is the sense of Congress that the President should—

(1) continue to promote actively negotiations among the member countries of the Ad Hoc Working Group on Chemical Warfare of the Committee on Disarmament established by the United Nations General Assembly and meeting in Geneva, Switzerland for the purpose of drafting a treaty for the complete, effective, and verifiable prohibition of the development, production, and stockpiling of all chemical weapons and for their destruction;

(2) press vigorously in every appropriate forum for a full explanation of outstanding allegations concerning Soviet and Soviet-proxy use of chemical weapons in violation of international law; and

(3) communicate to the Government of the Union of Soviet Socialist Republics the earnest desire of the Government of the United States for a comprehensive, verifiable ban on chemical weaponry and the willingness of the Government of the United States to participate in negotiations toward this end as soon as the Government of the United States can be satisfied that the Soviet Union is not in violation of existing international accords applying to the prohibition of first use of chemical weapons and the production and transfer of biological weapons and that the Soviet Union is prepared to agree to provisions needed to ensure the verifiability of an accord banning chemical warfare.

* * * * * * *

[2] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. Sec. 1(a)(5) of that Act provided that references to the Committee on Foreign Affairs shall be treated as referring to the Committee on International Relations. The Committee on National Security subsequently returned to the name "Committee on Armed Services"; see sec. 1067 of Public Law 106–65 (113 Stat. 774).

ff. Department of Defense Appropriation Authorization Act, 1979

Partial text of Public Law 95–485 [S. 3486], 92 Stat. 1611 at 1625, approved October 20, 1978

AN ACT To authorize appropriations for fiscal year 1979 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for civil defense, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Defense Appropriation Authorization Act, 1979".

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TITLE VIII—GENERAL PROVISIONS

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REALIGNMENT OF MILITARY INSTALLATIONS IN THE CANAL ZONE

Sec. 817. None of the funds authorized to be appropriated by this Act shall be used for the realignment of any military installation in the Canal Zone unless such use is consistent with the responsibility of, and necessity for, the United States to defend the Panama Canal or with legislation which may be enacted to implement the Panama Canal Treaties of 1977.

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gg. Department of Defense Appropriation Authorization Act, 1975

Partial text of Public Law 93–365 [H.R. 14592], 88 Stat. 399, approved August 5, 1974; as amended by Public Law 94–106 [Department of Defense Appropriation Authorization Act, 1976; H.R. 6674], 89 Stat. 531, approved October 7, 1975; Public Law 97–252 [Department of Defense Authorization Act, 1983; S. 2248], 96 Stat. 718 at 754, approved September 8, 1982; and by Public Law 103–199 [FRIENDSHIP Act; H.R. 3000], 107 Stat. 2317, approved December 17, 1993

AN ACT To authorize appropriations during the fiscal year 1975 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces and of civilian personnel of the Department of Defense, and to authorize the military training student loads and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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TITLE III—ACTIVE FORCES

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Sec. 302. (a) The United States military forces in Europe can reduce headquarters and noncombat military personnel relative to the number of combat personnel located in Europe. Therefore, except in the event of imminent hostilities in Europe, the noncombat component of the total United States military strength in Europe authorized as of June 30, 1974, shall be reduced by 18,000. Such reduction shall be completed not later than June 30, 1976, and not less than 6,000 of such reduction shall be completed on or before June 30, 1975; however, the Secretary of Defense is authorized to increase the combat component strength of United States forces in Europe by the amount of any such reduction made in noncombat personnel. The Secretary of Defense shall report semiannually to the Congress on all actions taken to improve the combat proportion of United States forces in Europe. The first report shall be submitted not later than March 31, 1975.

(b) For purposes of this section, the combat component of the Army includes only the infantry, cavalry, artillery, armored, combat engineers, special forces, attack assault helicopter units, air defense, and missile combat units of battalion or smaller size; the combat component of the Navy includes only the combat ships (aircraft carrier, cruiser, destroyer, submarine, escort and amphibious assault ships) and combat aircraft wings (fighter, attack, reconnaissance, and patrol); the combat component of the Air Force includes only the tactical fighter reconnaissance, tactical airlift, fighter interceptor and bomber units of wing or smaller size.

(c)[1] * * * [Repealed—1982]

(d) The total number of United States tactical nuclear warheads located in Europe on the date of enactment of this Act shall not be increased until after June 30, 1975, except in the event of imminent hostilities in Europe. The Secretary of Defense shall study the overall concept for use of tactical nuclear weapons in Europe; how the use of such weapons relates to deterrence and to a strong conventional defense; reductions in the number and type of nuclear warheads which are not essential for the defense structure for Western Europe; and the steps that can be taken to develop a rational and coordinated nuclear posture by the North Atlantic Treaty Organization Alliance that is consistent with proper emphasis on conventional defense forces. The Secretary of Defense shall report to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives[2] on the results of the above study on or before April 1, 1975.

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TITLE VII—GENERAL PROVISIONS[3]

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Sec. 704. Section 204 of Public Law 93–166 is amended by adding at the end thereof a new subsection as follows:

"(e) Notwithstanding any other provision of law, the conduct by the Department of the Navy of training operations at the Culebra complex involving the firing of any shells, missiles, or other projectiles from ships or the dropping of any bombs, strafing, firing of rockets or missiles, or the launching of any other projectiles from aircraft at Culebra or at any keys within three nautical miles thereof is prohibited during any period of time that the negotiations required by subsection (b) have been ended on the initiative of the United States Government prior to the conclusion of a satisfactory agreement. In the conduct of the negotiations required by subsection (b) the Secretary of the Navy shall not agree to any relocation of training operations from the Island of Culebra which would be rendered ineffective by any international agreement on the law of the sea which may become international law within three years after the date of the enactment of this Act."

* * * * * * *

Sec. 707. (a) No funds authorized to be appropriated by this or any other Act may be obligated under a contract entered into by the Department of Defense after the date of the enactment of this Act for procurement of goods which are other than American goods

[1] Subsec. (c), which had directed the Secretary of Defense to assess the costs and possible loss of nonnuclear combat effectiveness of NATO military forces due to failure to follow NATO standardization guidelines, was repealed by Public Law 97–295 (96 Stat. 1314). Public Law 97–295 reconstituted most of the text of subsec. (c) in 10 U.S.C. 2457.

[2] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. Sec. 1(a)(5) of that Act provided that references to the Committee on Foreign Affairs shall be treated as referring to the Committee on International Relations. The Committee on National Security subsequently returned to the name "Committee on Armed Services"; see sec. 1067 of Public Law 106–65 (113 Stat. 774).

[3] Sec. 702 amended Public Law 84–1028 (Restrictions on Disposal of Naval Vessels; 70A Stat. 1).

unless, under regulations of the Secretary of Defense and subject to the determinations and exceptions contained in title III of the Act of March 3, 1933, as amended (47 Stat. 1520; 41 U.S.C. 10a, 10b), popularly known as the Buy American Act, there is adequate consideration given to—

(1) the bids or proposals of firms located in labor surplus areas in the United States as designated by the Department of Labor which have offered to furnish American goods;

(2) the bids or proposals of small business firms in the United States which have offered to furnish American goods;

(3) the bids or proposals of all other firms in the United States which have offered to furnish American goods;

(4) the United States balance of payments;

(5) the cost of shipping goods which are other than American goods; and

(6) any duty, tariff, or surcharge which may enter into the cost of using goods which are other than American goods.

(b) For purposes of this section, the term "goods which are other than American goods" means (1) an end product which has not been mined, produced, or manufactured in the United States, or (2) an end product manufactured in the United States but the cost of the components thereof which are not mined, produced, or manufactured in the United States exceeds the cost of components mined, produced, or manufactured in the United States.

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Sec. 709.[4] * * * [Repealed—1993]

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[4] Formerly at 50 U.S.C. 2403–1. Sec. 709, relating to technology transfer to a controlled country, was repealed by sec. 202(b) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2322).

hh. Armed Forces Appropriation Authorization, 1971

Partial text of Public Law 91–441 [H.R. 17123], 84 Stat. 909, approved October 7, 1970, as amended by Public Law 95–79 [Department of Defense Appropriation Authorization Act, 1978; H.R. 5970], 91 Stat. 323 at 334, approved July 30, 1977

AN ACT To authorize appropriations during the fiscal year 1971 for procurement of aircraft, missiles, naval vessels, and tracked combat vehicles, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to authorize real estate acquisition and construction at certain installations in connection with the Safeguard antiballistic missile system, and to prescribe the authorized personnel strength of the Selected Reserve of each Reserve component of the Armed Forces, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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TITLE V—GENERAL PROVISIONS

Sec. 501. The Congress views with grave concern the deepening involvement of the Soviet Union in the Middle East and the clear and present danger to world peace resulting from such involvement which cannot be ignored by the United States. In order to restore and maintain the military balance in the Middle East, by furnishing to Israel for means of providing for its own security, the President is authorized to transfer to Israel, by sale, credit sale, or guaranty, such aircraft, and equipment appropriate to use, maintain, and protect such aircraft, as may be necessary to counteract any past, present, or future increased military assistance provided to other countries of the Middle East. Any such sale, credit sale, or guaranty shall be made on terms and conditions not less favorable than those extended to other countries which receive the same or similar types of aircraft and equipment. The authority contained in the second sentence of this section shall expire September 30, 1972.[1] In any case in which aircraft or other equipment is transferred under authority of this section and such aircraft or equipment is taken from the inventory of the Armed Forces of the United States or is scheduled to be included in such inventory, the Secretary of Defense shall, as soon as practicable and as authorized

[1] Sec. 807 of Public Law 95–79 (Department of Defense Appropriation Authorization Act, 1978; 91 Stat. 323 at 334) provided the following extension:

"Notwithstanding any other provision of law, the authority provided in section 501 of Public Law 91–441 (84 Stat. 909) is hereby extended until October 1, 1979; but no transfer of aircraft or other equipment may be made under the authority of such section 501 unless funds have been previously appropriated for such transfer.".

by law, restock the inventory of the Armed Forces of the United States with equivalent quantities of aircraft and other equipment so transferred.[2]

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[2] The last sentence in sec. 501 was added by sec. 807(b) of the Department of Defense Appropriation Authorization Act, 1978 (Public Law 95–79; 91 Stat. 334).

ii. Authorization for an Improved U.S./Soviet Direct Communication Link

Public Law 99–85 [S.J. Res. 108], 99 Stat. 286, approved August 8, 1985; amended by Public Law 103–199 [FRIENDSHIP Act; H.R. 3000], 107 Stat. 2317, approved December 17, 1993

JOINT RESOLUTION[1] Authorizing the Secretary of Defense to provide to the Soviet Union, on a reimbursable basis, equipment and services necessary for an improved United States/Soviet Direct Communication Link for crisis control.

Whereas section 1123(a) of the Department of Defense Authorization Act, 1983 (Public Law 97–252), directed the Secretary of Defense "to conduct a full and complete study and evaluation of possible initiatives for improving the containment and control of the use of nuclear weapons, particularly during crises;

Whereas the Congress directed that the same study should address several specific measures for building confidence between the United States and the Soviet Union, including an improved Direct Communications Link for crisis control;

Whereas the Secretary of Defense responded to that congressional mandate with a report entitled "Report to the Congress on Direct Communications Links and Other Measures to Enhance Stability" in which the Secretary proposed several improvements to existing United States-Soviet mechanisms for the prevention and resolution of crises, including the addition of a facsimile capability to the United States/Soviet Union Direct Communications Link;

Whereas the President of the United States presented the recommendations of the Secretary of Defense to the Government of the Soviet Union in May 1983;

Whereas the United States and the Soviet Union commenced negotiations on bilateral communications improvements in August 1983, and on July 17, 1984, concluded the Exchange of Notes Between the United States of America and the Union of Soviet Socialist Republics Concerning the Direct Communications Link Upgrade in which the two governments agreed to add a facsimile capability to the Direct Communications Link;

Whereas the Congress endorses that agreement and remains committed to all possible measures to facilitate the resolution of international crises and to limit the danger of conflict;

Whereas the Secretary of Defense is responsible for the installation, maintenance, and operation of the Direct Communications Link equipment for the United States; and

Whereas the Exchange of Notes Between the United States of America and the Union of Soviet Socialist Republics Concerning the Direct Communications Link Upgrade provides that the

[1] 10 U.S.C. 113 note.

United States Government will provide to the Union of Soviet Socialist Republics, at cost, the equipment and services necessary for the Soviet Union part of the improved Direct Communications Link: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Defense may provide to Russia,[2] as provided in the Exchange of Notes Between the United States of America and the Union of Soviet Socialist Republics Concerning the Direct Communications Link Upgrade, concluded on July 17, 1984, such equipment and services as may be necessary to upgrade or maintain the Russian part[3] of the Direct Communications Link agreed to in the Memorandum of Understanding between the United States and the Soviet Union signed June 20, 1963. The Secretary shall provide such equipment and services to Russia[2] at the cost thereof to the United States.

SEC. 2. (a) The Secretary of Defense may use any funds available to the Department of Defense for the procurement of the equipment and providing the services referred to in the first section.

(b) Funds received from Russia[4] as payment for such equipment and services shall be credited to the appropriate account of Department of Defense.

[2] Sec. 404(a)(1)(A) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2325) struck out "to the Soviet Union" and inserted in lieu thereof "to Russia".

[3] Sec. 404(a)(1)(B) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2325) struck out "Soviet Union part" and inserted in lieu thereof "Russian part".

[4] Sec. 404(a)(2) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2325) struck out "the Soviet Union" and inserted in lieu thereof "Russia". Sec. 404(b) of that Act, however, provided that "The amendment made by subsection (a)(2) does not affect the applicability of section 2(b) of that joint resolution to funds received from the Soviet Union.".

4. 10 U.S.C. 7307—Disposal to Foreign Nations of Naval Vessels

Chapter 633.—NAVAL VESSELS

* * * * * * *

§ Sec. 7307.[1] Disposals to foreign nations

(a) LARGER OR NEWER VESSELS.—A naval vessel that is in excess of 3,000 tons or that is less than 20 years of age may not be disposed of to another nation (whether by sale, lease, grant, loan, barter, transfer, or otherwise) unless the disposition of that vessel is approved by law enacted after August 5, 1974. A lease or loan of such a vessel under such a law may be made only in accordance with the provisions of chapter 6 of the Arms Export Control Act (22 U.S.C. 2796 et seq.) or chapter 2 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 et seq.).

(b) OTHER VESSELS.—(1) A naval vessel not subject to subsection (a) may be disposed of to another nation (whether by sale, lease, grant, loan, barter, transfer, or otherwise) in accordance with applicable provisions of law, but only after—

(A) the Secretary of the Navy notifies the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives[2] in writing of the proposed disposition; and

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[1] 10 U.S.C. 7307 was originally enacted in Public Law 84–1028 (70A Stat. 1; August 10, 1956), and has been amended by Public Law 93–365 (88 Stat. 399); Public Law 94–457 (90 Stat. 1938); Public Law 96–513 (94 Stat. 2835); Public Law 99–83 (99 Stat. 190); and by Public Law 101–510 (104 Stat. 1704).

Sec. 824(b) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1708) amended and restated 10 U.S.C. 7307.

For recent authorizations of transfers of naval vessels, see:

—Sec. 1025 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1877);

—Sec. 1235 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2157);

—Sec. 8110 of the Department of Defense Appropriations Act, 1999 (Public Law 105–262; 112 Stat. 2323);

—Sec. 1018 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 744);

—Title XII of the Security Assistance Act of 1999 (Public Law 106–113; 113 Stat. 1537–501);

—Title VI of the Security Assistance Act of 2000 (Public Law 106–280; 114 Stat. 859);

—Title XVII of the Security Assistance Act of 2002 (Public Law 107–228; 116 Stat. 1463); and

—Sec. 1013 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2040).

[2] Sec. 1502(a)(1) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 502) struck out "Committees on Armed Services of the Senate and House of Representatives" and inserted in lieu thereof "Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives". Sec. 1067(1) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 774) subsequently struck out "Committee on National Security" and inserted in lieu thereof "Committee on Armed Services".

(B) 30 days of continuous session of Congress have expired following the date on which such notice is sent to those committees.

(2) For purposes of paragraph (1)(B), the continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of such 30-day period.

EXECUTED PUBLIC LAWS RELATING TO THE TRANSFER OF NAVAL VESSELS

a. Netherlands—P.L. 82–510 [S. 3337], 66 Stat. 587, approved July 11, 1952.

b. Italy and France; Far Eastern and European Nations—P.L. 83–188 [S. 2277], 67 Stat. 363, approved Aug. 5, 1953, as amended by P.L. 84–948 [H.R. 11613], 70 Stat. 967, approved Aug. 3, 1956.

c. Turkey—P.L. 83–214 [S. 2539], 67 Stat. 471, approved Aug. 7, 1953.

d. Brazil—P.L. 84–484 [H.R. 8100], 70 Stat. 105, approved Apr. 6, 1956.

e. Netherlands and Venezuela—P.L. 85–220 [H.R. 6952], 71 Stat. 495, approved Aug. 29, 1957.

f. NATO and the European Area; the Latin American and Far Eastern Areas—P.L. 85–532 [S. 3506], 72 Stat. 376; 50 U.S.C. App. 1878e–1878i, approved July 18, 1958.

g. Italy, Turkey, and the Republic of China—P.L. 86–57 [H.R. 3366], 73 Stat. 90; 50 U.S.C. App. 1878j–1878*l*, approved June 23, 1959.

h. Republic of China—P.L. 86–482 [H.R. 9465], 74 Stat. 153; 50 U.S.C. App. 1878m–1878p, approved June 1, 1960.

i. Portugal, Spain, NATO, Southern Asia, and the Far Eastern Area—P.L. 87–387 [H.R. 7726], 75 Stat. 815; 50 U.S.C. App. 1878q–1878x, approved Oct. 4, 1961.

j. Argentina, Brazil, China, Germany, Greece, Italy, Japan, The Netherlands, Peru, Spain, Thailand, and Turkey—P.L. 88–437 [H.R. 11035], 78 Stat. 444; 50 U.S.C. App. 1878y–1878bb, approved Aug. 14, 1964.

k. Italy, Spain, Argentina, Brazil, Turkey, and the Philippines—P.L. 89–324 [H.R. 7812], 79 Stat. 1214; 50 U.S.C. App. 1878cc–1878mm, approved Nov. 5, 1965.

l. Republic of China—P.L. 89–398 [H.R. 7813], 80 Stat. 121; 50 U.S.C. App. 1878nn–1878ss, approved Apr. 16, 1966.

m. Argentina, Brazil, Chile, Colombia, Federal Republic of Germany, Greece, Republic of Korea, Portugal, Spain, and Peru—P.L. 90–224 [H.R. 6167], 81 Stat. 729; 50 U.S.C. App. 1878tt–1878xx approved Dec. 26, 1967.

n. Greece, Pakistan, Republic of Vietnam, and Turkey—P.L. 91–682 [H.R. 15728], 84 Stat. 2066; 50 U.S.C. App. 1878yy–1878zz–3, approved Jan. 12, 1971.

o. Spain, Turkey, Greece, Republic of Korea and Italy—P.L. 92–270 [H.R. 9526], 86 Stat. 118; 50 U.S.C. App. 1878zz–4—1878zz–8, approved Apr. 6, 1972.

p. Argentina, Republic of China, Colombia, Germany, Greece, Iran, Republic of Korea, Pakistan, the Philippines, Spain, and Venezuela—P.L. 94–457 [S. 3734], 90 Stat. 1938, approved Oct. 5, 1976.

q. Brazil, Colombia, Ecuador, Greece, Indonesia, Republic of Korea, Mexico, Peru, Philippines, and Spain—P.L. 96–150 [H.R. 5163], 93 Stat. 1091, approved Dec. 20, 1979.

r. Colombia, Dominican Republic, Mexico, Pakistan, Turkey—P.L. 97–342 [H.R. 7115], 96 Stat. 1641, approved Oct. 15, 1982.

s. Taiwan—P.L. 99–661 [S. 2638], 100 Stat. 4005, approved Nov. 14, 1986.

t. Philippines—P.L. 101–44 [H.R. 2344], 103 Stat. 96, approved June 30, 1989.

u. Brazil—P.L. 101–172 [H.R. 3544], 103 Stat. 1291, approved Nov. 22, 1989.

v. Brazil—P.L. 101–568 [S. 3215], 104 Stat. 2804, approved Nov. 15, 1990.

w. Greece—P.L. 102–91 [H.R. 2901], 105 Stat. 472, approved Aug. 14, 1991.

x. Greece, Taiwan—P.L. 102–322 [H.R. 5412], 106 Stat. 443, approved July 19, 1992.

y. Argentina, Australia, Chile, Greece, Taiwan, Turkey—P.L. 103–54 [H.R. 2561], 107 Stat. 274, approved July 28, 1993.

z. Brazil, Egypt, Morocco, Oman, Spain, Taiwan, Thailand, Turkey, Venezuela—P.L. 103–174 [H.R. 3741], 107 Stat. 2000, approved Dec. 2, 1993.

aa. Australia, Brazil, Morocco, Spain—P.L. 103–295 [H.R. 4426], 108 Stat. 1462, approved Aug. 12, 1994.

bb. Argentina, Chile, Malaysia, Spain, Taiwan, Venezuela—P.L. 103–378 [H.R. 5155], 108 Stat. 3508, approved Oct. 19, 1994.

cc. Egypt, Mexico, New Zealand, Portugal, Taiwan,, Thailand—P.L. 104–164 [H.R. 3121], 110 Stat. 1421, approved July 21, 1996.

B. AGRICULTURAL COMMODITIES

CONTENTS

Page

1. Agricultural Trade Development and Assistance 1337
   a. Agricultural Trade Development and Assistance Act of 1954, as amended (Public Law 480) 1337
   b. Farm Security and Rural Investment Act of 2002 (Public Law 107–171) (partial text) 1389
   c. Federal Agriculture Improvement and Reform Act of 1996 (Public Law 104–127) (partial text) 1405
   d. Enterprise for the Americas Initiative Act of 1992 (Public Law 102–532) (partial text) 1407
   e. Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624) (partial text) 1410
   f. Agricultural Development and Trade Act of 1990 (title XV of Public Law 101–624) 1415
   g. Agricultural Act of 1949 (Public Law 81–439) (partial text) 1426
   h. Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2005 (Public Law 108–447) (partial text) 1436
   i. Food Security Act of 1985 (Public Law 99–198) (partial text) 1440
   j. President's Emergency Food Assistance Act of 1984 (title III of Public Law 98–473) 1459
   k. Agricultural Exports (Public Law 98–258) (partial text) 1461
   l. Food and Agriculture Act of 1977 (Public Law 95–113) (partial text) . 1463
   m. Extension of Agricultural Trade Development and Assistance Act of 1954, as amended (Public Law 85–931) (partial text) 1465
   n. Implementation of the Agricultural Trade Development and Assistance Act of 1954, as Amended, and the Food for Progress Act of 1985, as Amended (Executive Order 12752) 1467
   o. Assigning Foreign Affairs Functions and Implementing the Enterprise for the Americas Initiative and the Tropical Forest Conservation Act (Executive Order 13345) 1470
2. Agricultural Trade 1473
   a. Agricultural Competitiveness and Trade Act of 1988 (Public Law 100–418) (partial text) 1473
   b. Agricultural Trade Act of 1978 (Public Law 95–501) 1487
3. Agricultural Act of 1980 and Related Material 1518
   a. Agricultural Trade Suspension Adjustment Act of 1980 (title II of Public Law 96–494) (partial text) 1518
   b. Bill Emerson Humanitarian Trust Act (title III of Public Law 96–494) 1526
   c. Food Security Wheat Reserve (Executive Order 12266) 1531
4. National Agricultural Research, Extension, and Teaching Policy Act of 1977 (Public Law 95–113) (partial text) 1532
5. Agriculture and Food Act of 1981 (Public Law 97–98) (partial text) 1537
6. International Carriage of Perishable Foodstuffs Act (Public Law 97–325) ... 1543
7. Pesticide Monitoring Improvements (Public Law 100–418) (partial text) 1547

1. Agricultural Trade Development and Assistance

a. Agricultural Trade Development and Assistance Act of 1954, as amended (Public Law 480)

CONTENTS

	Page
Section 1—Short Title	1340
Section 2—United States Policy	1340
Section 3—Food Aid to Developing Countries	1341
Title I—Trade and Development Assistance	1341
Section 101—Trade and Development Assistance	1341
Section 102—Agreements Regarding Eligible Countries and Private Entities.	1342
Section 103—Terms and Conditions of Sales	1343
Section 104—Use of Local Currency Payment	1344
Title II—Emergency and Private Assistance Programs	1346
Section 201—General Authority	1346
Section 202—Provision of Agricultural Commodities	1347
Section 203—Generation and Use of Currencies By Private Voluntary Organizations and Cooperatives	1350
Section 204—Levels of Assistance	1351
Section 205—Food Aid Consultative Group	1352
Section 207—Administration	1353
Section 208—Assistance for Stockpiling and Rapid Transportation, Delivery, and Distribution of Shelf-Stable Prepackaged Foods	1355
Title III—Food for Development	1356
Section 301—Bilateral Grant Program	1356
Section 302—Eligible Countries	1356
Section 303—Grant Programs	1357
Section 304—Direct Uses or Sales of Commodities	1357
Section 305—Local Currency Accounts	1357
Section 306—Use of Local Currency Proceeds	1358
Title IV—General Authorities and Requirements	1360
Section 401—Commodity Determinations	1360
Section 402—Definitions	1360
Section 403—General Provisions	1361
Section 404—Agreements	1364
Section 405—Consultation	1366
Section 406—Use of Commodity Credit Corporation	1366
Section 407—Administrative Provisions	1367
Section 408—Expiration Date	1370
Section 411—Debt Forgiveness	1371
Section 412—Authorization of Appropriations	1372
Section 413—Coordination of Foreign Assistance Programs	1373
Section 414—Assistance in Furtherance of Narcotics Control Objectives of the United States	1373
Section 415—Micronutrient Fortification Programs	1373
Section 416—Use of Certain Local Currency	1374
Title V—Farmer-to-Farmer Program	1375
Section 501—John Ogonowski Farmer-to-Farmer Program	1375
Title VI—Enterprise for the Americas Initiative	1378
Section 601—Establishment of the Facility	1378
Section 602—Purpose	1378
Section 603—Eligibility for Benefits Under the Facility	1379
Section 604—Reduction of Certain Debt	1379
Section 605—Repayment of Principal	1380

Section 606—Interest of New Obligations 1380
Section 607—Environmental Framework Agreements 1380
Section 608—Enterprise for the Americas Environmental Funds 1382
Section 609—Disbursement of Environmental Funds 1382
Section 610—Enterprise for the Americas Board 1382
Section 611—Oversight 1383
Section 612—Eligible Activities and Grantees 1383
Section 613—Encouraging Multilateral Debt Donations 1384
Section 614—Annual Report to Congress 1384
Section 615—Consultations With Congress 1384
Section 616—Sale of Qualified Debt to Eligible Countries 1384
Section 617—Sale, Reduction, or Cancellation of Qualified Debt to Facilitate Certain Debt Swaps 1385
Section 618—Notification to Congressional Committees 1386
Section 619—Definition of Qualified Debt 1387

a. Agricultural Trade Development and Assistance Act of 1954, as amended (Public Law 480) [1, 2]

Public Law 83–480 [S. 2475], 68 Stat. 454, 7 U.S.C. 1691–1738r, approved July 10, 1954; as amended by Public Law 84–25 [S. 752], 69 Stat. 44, approved April 25, 1955; Public Law 84–387 [S. 2253], 69 Stat. 721, approved August 12, 1955; Public Law 84–540 [H.R. 10875], 70 Stat. 188, approved May 28, 1956; Public Law 84–726 [H.R. 11356], 70 Stat. 555, approved July 18, 1956; Public Law 84–962 [S. 3903], 70 Stat. 988, approved August 3, 1956; Public Law 85–128 [S. 1314], 71 Stat. 345, approved August 13, 1957; Public Law 85–141 [S. 2130], 71 Stat. 355, approved August 14, 1957; Public Law 85–477 [H.R. 12181], 72 Stat. 261, approved June 30, 1958; Public Law 85–931 [S. 3420], 72 Stat. 1790, approved September 6, 1958; Public Law 86–108 [H.R. 7500], 73 Stat. 246, approved July 24, 1959; Public Law 86–341 [H.R. 8609], 733 Stat. 606, approved September 21, 1959; Public Law 86–472] H.R. 11510], 74 Stat. 134, approved May 14, 1960; Public Law 87–28 [S. 1027], 75 Stat. 64, approved May 4, 1961; Public Law 87–128 [S. 1643], 75 Stat. 294, approved August 8, 1961; Public Law 87–195 [S. 1983], 75 Stat. 424, approved September 4, 1961; Public Law 87–703 [H.R. 12391], 76 Stat. 605, approved September 27, 1962; Public Law 87–839 [S. 3389], 76 Stat. 1074, approved October 18, 1962; Public Law 88–205 [H.R. 7885], 77 Stat. 379, approved December 16, 1963; Public Law 88–638 [S. 2687], 78 Stat. 1035, approved October 8, 1964; Public Law 89–106 [H.R. 5508], 79 Stat. 431, approved August 4, 1965; Public Law 89–171 [H.R. 7750], 79 Stat. 653, approved September 6, 1965; Public Law 89–808 [H.R. 14929], 80 Stat. 1526, approved November 11, 1966; Public Law 90–436 [S. 2986], 82 Stat. 450, approved July 29, 1968; Public Law 91–524 [H.R. 18546], 84 Stat. 1358, approved November 30, 1970; Public Law 92–42 [H.R. 1161], 85 Stat. 99, approved July 1, 1971; Public Law 93–86 [S. 1888], 87 Stat. 237, approved August 10, 1973; Public Law 94–161 [H.R. 9005], 89 Stat. 849, approved December 20, 1975; Public Law 95–88 [H.R. 6714], 91 Stat. 533, approved August 3, 1977; Public Law 95–113 [S. 275], 91 Stat. 913, approved September 29, 1977; Public Law 95–424 [International Development and Food Assistance Act of 1978, H.R. 12222], 92 Stat. 937, approved October 6, 1978; Public Law 96–53 [International Development Cooperation Act of 1979, H.R. 3324], 93 Stat. 359, approved August 14, 1979; Public Law 96–72 [Export Administration Act of 1979, S. 737], 93 Stat. 503 at 536, approved September 29, 1979; Public Law 96–470 [Congressional Reports Elimination Act of 1980, H.R. 6686], 94 Stat. 2237 at 2246, approved October 19, 1980; Public Law 96–533 [International Security and Development Cooperation

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[1] The Agricultural Trade Development and Assistance Act of 1954, as amended, was substantially amended and restated by sec. 1512 of subtitle A (the "Mickey Leland Food for Peace Act") of title XV (the "Agricultural Development and Trade Act of 1990") of Public Law 101–624 (the "Food, Agriculture, Conservation, and Trade Act of 1990").

Previously, this Act has been restated and amended by sec. 2 of the Food for Peace Act of 1966.

[NOTE.—In signing the Food for Peace bill on November 11, 1966, the President referred to it as the "Food for Freedom program".]

The Food for Peace Act of 1966 was effective as of January 1, 1967, except that sec. 4 took effect November 11, 1966.

See also Africa: Seeds of Hope Act of 1998 (Public Law 105–385; 112 Stat. 3460), beginning at page 170.

[2] Prohibitions against furnishing assistance under this Act are contained in subsecs. (i), (j), (n), (s), and (t) of sec. 620 of the Foreign Assistance Act of 1961, as amended. For text, see *Legislation on Foreign Relations Through 2004*, vol. I–A. A further prohibition was contained in the Agricultural Environmental and Consumer Protection Appropriation Act, 1975 (Public Law 93–563; 88 Stat. 1830).

Act of 1980, H.R. 6942], 94 Stat. 3131 at 3151, approved December 16, 1980; Public Law 97–98 [S. 884], 95 Stat. 1213 at 1274, approved December 22, 1981; Public Law 97–113 [International Security and Development Cooperation Act of 1981, S. 1196], 95 Stat. 1519 at 1537, approved December 29, 1981; Public Law 98–473 [Continuing Appropriations Act, 1985; H.J. Res. 648], 98 Stat. 1837 at 2194, approved October 12, 1984; Public Law 98–623 [H.R. 6342], 98 Stat. 3394, approved November 8, 1984, Public Law 99–83 [International Security and Development Cooperation Act of 1985, S. 960], 99 Stat. 190, approved August 8, 1985; Public Law 99–198 [Food Security Act of 1985, H.R. 2100], 99 Stat. 1354, approved December 23, 1985; Public Law 100–202 [Continuing Appropriations for 1988, H.J. Res. 395], 101 Stat. 1329, approved December 22, 1987; Public Law 100–418 [Omnibus Trade and Competitiveness Act of 1988, H.R. 4848] 102 Stat. 1107, approved August 23, 1988; Public Law 100–576 [Bangladesh Disaster Assistance Act of 1988, H.R. 5389], 102 Stat. 2897, approved October 31, 1988; Public Law 101–624 [Food, Agriculture, Conservation, and Trade Act of 1990; S. 2830], 104 Stat. 3359, approved November 28, 1990; Public Law 102–237 [Food, Agriculture, Conservation, and Trade Act Amendments of 1991; H.R. 3029], 105 Stat. 1818, approved December 13, 1991; Public Law 102–532 [Enterprise for the Americas Initiative Act of 1992; H.R. 4059], 106 Stat. 3509, approved October 27, 1992; Public Law 102–549 [Jobs Through Exports Act of 1992; H.R. 4996], 106 Stat. 3651, approved October 28, 1992; Public Law 102–583 [International Narcotics Control Act of 1992; H.R. 6187], 106 Stat. 4914, approved November 2, 1992; Public Law 104–66 [Federal Reports Elimination and Sunset Act of 1995; S. 790], 109 Stat. 707, approved December 21, 1995; Public Law 104–127 [Federal Agriculture Improvement and Reform Act of 1996; H.R. 2854], 110 Stat. 888, approved April 4, 1996; Public Law 106–387 [Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001; H.R. 5416, enacted by reference in H.R. 4461], 114 Stat. 1549, approved October 28, 2000; Public Law 106–472 [Grain Standards and Warehouse Improvement Act of 2000; H.R. 4788], 114 Stat. 2058, approved November 9, 2000; Public Law 107–76 [Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2002; H.R. 2330], 115 Stat. 704, approved November 28, 2001; Public Law 107–171 [Farm Security and Rural Investment Act of 2002; H.R. 2646], 116 Stat. 134, approved May 13, 2002; Public Law 108–199 [Consolidated Appropriations Act, 2004; H.R. 2673], 118 Stat. 3, approved January 23, 2004; Public Law 108–447 [Consolidated Appropriations Act, 2005; H.R. 4818], 118 Stat. 2809, approved December 8, 2004

AN ACT To increase the consumption of United States agricultural commodities in foreign countries, to improve the foreign relations of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Agricultural Trade Development and Assistance Act of 1954."

SECTION 1. SHORT TITLE.

This Act may be cited as the "Agricultural Trade Development and Assistance Act of 1954".

SEC. 2.[3] UNITED STATES POLICY.

It is the policy of the United States to use its abundant agricultural productivity to promote the foreign policy of the United States by enhancing the food security of the developing world through the use of agricultural commodities and local currencies accruing under this Act to—

(1) combat world hunger and malnutrition and their causes;

(2) promote broad-based, equitable, and sustainable development, including agricultural development;

[3] 7 U.S.C. 1691.

(3) expand international trade;

(4) develop and expand export markets for United States agricultural commodities;[4]

(5) foster and encourage the development of private enterprise and democratic participation in developing countries; and

(6)[4] prevent conflicts.

SEC. 3.[5] FOOD AID TO DEVELOPING COUNTRIES.

(a) POLICY.—In light of the Uruguay Round Agreement on Agriculture and the Ministerial Decision on Measures Concerning the Possible Negative Effects of the Reform Program on Least-Developed and Net-Food Importing Developing Countries, the United States reaffirms the commitment of the United States to providing food aid to developing countries.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the President should initiate consultations with other donor nations to consider appropriate levels of food aid commitments to meet the legitimate needs of developing countries; and

(2) the United States should increase its contribution of bona fide food assistance to developing countries consistent with the Agreement on Agriculture.

TITLE I—TRADE AND DEVELOPMENT ASSISTANCE

SEC. 101.[6] TRADE AND DEVELOPMENT ASSISTANCE.

(a) IN GENERAL.—The President shall establish a program under this title to provide for the sale of agricultural commodities to developing countries and private entities[7] for dollars on credit terms, or for local currencies (including for local currencies on credit terms) for use under this title. Such program shall be implemented by the Secretary.

(b) GENERAL AUTHORITY.—To carry out the policies and accomplish the objectives described in section 2, the Secretary may negotiate and execute agreements with developing countries and private entities[7] to finance the sale and exportation of agricultural commodities to such countries and entities.[8]

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[4] Sec. 3001 of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 280) struck out "and" at the end of para. (4), replaced the period at the end of para. (5) with "; and", and added para. (6).

[5] 7 U.S.C. 1691a. Sec. 201(a) of Public Law 104–127 (110 Stat. 951) amended and restated sec. 3. It formerly read as follows:

"SEC. 3. GLOBAL FOOD AID NEEDS.

"In view of the principal findings of the National Research Council of the National Academy of Sciences that doubling food aid above 1990 levels of about 10,000,000 metric tons per year would be necessary to meet projected global food needs throughout the decade of the nineties, it is the sense of Congress that the President should—

"(1) increase the contributions of food aid by the United States, and encourage other donor countries to increase their contributions toward meeting new food aid requirements; and

"(2) encourage other advanced nations to make increased food aid contributions to combat world hunger and malnutrition, particularly through the expansion of international food and agricultural assistance programs.".

[6] 7 U.S.C. 1701.

[7] Sec. 202 of Public Law 104–127 (110 Stat. 951) struck out "developing countries" and inserted in lieu thereof "developing countries and private entities" throughout sec. 101.

[8] Sec. 202 of Public Law 104–127 (110 Stat. 951) inserted "and entities" at the end of the sentence.

SEC. 102.[9] AGREEMENTS REGARDING ELIGIBLE COUNTRIES AND PRIVATE ENTITIES.

(a) PRIORITY.—In selecting agreements to be entered into under this title, the Secretary shall give priority to agreements providing for the export of agricultural commodities to developing countries that—

(1) have the demonstrated potential to become commercial markets for competitively priced United States agricultural commodities;

(2) are undertaking measures for economic development purposes to improve food security and agricultural development, alleviate poverty, and promote broad-based equitable and sustainable development; and

(3) demonstrate the greatest need for food.

(b) PRIVATE ENTITIES.—An agreement entered into under this title with a private entity shall require such security, or such other provisions as the Secretary determines necessary, to provide reasonable and adequate assurance of repayment of the financing extended to the private entity.

(c) AGRICULTURAL MARKET DEVELOPMENT PLAN.—

(1) DEFINITION OF AGRICULTURAL TRADE ORGANIZATION.—In this subsection, the term "agricultural trade organization" means a United States agricultural trade organization that promotes the export and sale of a United States agricultural commodity and that does not stand to profit directly from the specific sale of the commodity.

(2) PLAN.—The Secretary shall consider a developing country for which an agricultural market development plan has been approved under this subsection to have the demonstrated potential to become a commercial market for competitively priced United States agricultural commodities for the purpose of granting a priority under subsection (a).

(3) REQUIREMENTS.—

(A) IN GENERAL.—To be approved by the Secretary, an agricultural market development plan shall—

(i) be submitted by a developing country or private entity, in conjunction with an agricultural trade organization;

(ii) describe a project or program for the development and expansion of a commercial market for a United States agricultural commodity in a developing

[9] 7 U.S.C. 1702. Sec. 203 of Public Law 104–127 (110 Stat. 951) amended and restated sec. 102. It formerly read as follows:

"SEC. 102. ELIGIBLE COUNTRIES.

"(a) IN GENERAL.—A country shall be considered to be a developing country and eligible for assistance under this title if such country has a shortage of foreign exchange earnings and has difficulty meeting all of its food needs through commercial channels, as determined by the Secretary.

"(b) PRIORITY.—In determining whether and to what extent agricultural commodities will be made available to developing countries under this title, the Secretary shall give priority to developing countries that—

"(1) demonstrate the greatest need for food;

"(2) are undertaking measures for economic development purposes to improve food security and agricultural development, alleviate poverty, and promote broad-based equitable and sustainable development; and

"(3) have the demonstrated potential to become commercial markets for competitively priced United States agricultural commodities.".

country, and the economic development of the country, using funds derived from the sale of agricultural commodities received under an agreement described in section 101;

(iii) provide for any matching funds that are required by the Secretary for the project or program;

(iv) provide for a results-oriented means of measuring the success of the project or program; and

(v) provide for graduation to the use of non-Federal funds to carry out the project or program, consistent with requirements established by the Secretary.

(B) AGRICULTURAL TRADE ORGANIZATION.—The project or program shall be designed and carried out by the agricultural trade organization.

(C) ADDITIONAL REQUIREMENTS.—An agricultural market development plan shall contain such additional requirements as are determined necessary by the Secretary.

(4) ADMINISTRATIVE COSTS.—

(A) IN GENERAL.—The Secretary may make funds made available to carry out this title available for the reimbursement of administrative expenses incurred by agricultural trade organizations in developing, implementing, and administering agricultural market development plans, subject to such requirements and in such amounts as the Secretary considers appropriate.

(B) DURATION.—The funds may be made available to agricultural trade organizations for the duration of the applicable agricultural market development plan.

(C) TERMINATION.—The Secretary may terminate assistance made available under this subsection if the agricultural trade organization is not carrying out the approved agricultural market development plan.

SEC. 103.[10] TERMS AND CONDITIONS OF SALES.

(a) PAYMENT.—

(1) DOLLARS.—Except as provided in paragraph (2), agreements under this title shall require that payment for agricultural commodities be made in dollars.

(2) LOCAL CURRENCIES.—

(A) IN GENERAL.—The Secretary may permit[11] payment under an agreement under this title in the local currency of the appropriate country[12] in order to use the proceeds from such payments to carry out activities under section 104.

(B) RATES OF EXCHANGE.—Payments in local currency shall be at rates of exchange that are no less favorable than the highest exchange rate legally obtainable in the country and that are no less favorable than the highest exchange rate obtainable by any other country.

[10] 7 U.S.C. 1703.

[11] Sec. 204(1)(A) of Public Law 104–127 (110 Stat. 953) struck out "a recipient country to make" after "may permit".

[12] Sec. 204(1)(B) of Public Law 104–127 (110 Stat. 953) struck out "such country" and inserted in lieu thereof "the appropriate country".

(b) INTEREST.—Such agreements shall provide that interest accrue on the payment deferred under such agreement at a concessional rate as determined appropriate by the Secretary.

(c) DURATION.—Payments required under such agreements may be made in reasonable annual amounts over the period (not [13] more than 30 years from the date of the last delivery of commodities in each year under such agreement) specified in the agreement.

(d) DEFERRAL OF PAYMENTS.—The Secretary may defer the date on which the developing country or private entity [14] is required to begin making payment, under such agreements, for a period of not in excess of 5 [15] years after the date of the last delivery of commodities in each year under the agreement, and interest shall be computed from the date of such last delivery.

(e) DELIVERY OF COMMODITIES.—Delivery of the commodities shall be made in accordance with the terms of the agreement.

Note.—See 31 U.S.C. 1306, use of foreign currencies, in *Legislation on Foreign Relations Through 2004*, vol. I–A.

Section 507 of the Public Works for Water, Pollution Control, and Power Development and Atomic Energy Commission Appropriation Act, 1970 (Public Law 91–144; 83 Stat. 338), provided as follows:

"Pursuant to section 1415 of the Act of July 15, 1952 (66 Stat. 662), foreign credits (including currencies) owed to or owned by the United States may be used by Federal agencies for any purpose for which appropriations are made for the current fiscal year (including the carrying out of Acts requiring or authorizing the use of such credits), only when reimbursement therefor is made to the Treasury from applicable appropriations of the agency concerned: *Provided,* That such credits received as exchange allowances or proceeds of sales of personal property may be used in whole or part payment for acquisition of similar items, to the extent and in the manner authorized by law, without reimbursement to the Treasury.".

SEC. 104.[16] USE OF LOCAL CURRENCY PAYMENT.

(a) IN GENERAL.—Agreements under this title may provide that the Secretary shall use payments made in local currencies by the developing country or private entity [17] in accordance with this section.

[13] Sec. 204(2) of Public Law 104–127 (110 Stat. 953) struck out "less than 10 nor" after "(not".

[14] Sec. 204(3)(A) of Public Law 104–127 (110 Stat. 953) struck out "recipient country" and inserted in lieu thereof "developing country or private entity".

[15] Sec. 204(3)(B) of Public Law 104–127 (110 Stat. 953) struck out "7" and inserted in lieu thereof "5".

[16] 7 U.S.C. 1704.

[17] Sec. 205(1) of Public Law 104–127 (110 Stat. 953) struck out "recipient country" and inserted in lieu thereof "developing country or private entity".

(b) SPECIAL ACCOUNT.—Foreign currencies received by the Secretary under this title shall be deposited in a separate account, that may be interest-bearing, to the credit of the United States and such currencies and interest thereon shall be used as provided for in this section.

(c) ACTIVITIES.—The proceeds from the payments referred to in subsection (a) may be used in the appropriate developing country [18] for the following:

(1) TRADE DEVELOPMENT.—To carry out programs to help develop markets for United States agricultural commodities on a mutually beneficial basis in the appropriate developing country.[18]

(2) AGRICULTURAL DEVELOPMENT.—To support—

(A) increased agricultural production, including availability of agricultural inputs, with emphasis on small farms, processing of agricultural commodities, forestry management, and land and water management;

(B) credit policies for private-sector agriculture development;

(C) establishment and expansion of institutions for basic and applied agricultural research and the use of such research through development of extension services; and

(D) programs to control rodents, insects, weeds, and other animal or plant pests.

(3) AGRICULTURAL BUSINESS DEVELOPMENT LOANS.—To make loans to United States business entities (including cooperatives) and branches, subsidiaries, or affiliates of such entities for agricultural business development and agricultural trade expansion in such appropriate developing countries.[19]

(4) AGRICULTURAL FACILITIES LOANS.—To make loans to domestic or foreign entities (including cooperatives) for the establishment of facilities for aiding in the utilization or distribution of, or otherwise increasing the consumption of and markets for, United States agricultural products.

(5) TRADE PROMOTION.—To promote agricultural trade development, under procedures established by the Secretary, by making loans or through other activities (including trade fairs) that the Secretary determines to be appropriate.

(6) PRIVATE SECTOR AGRICULTURAL TRADE DEVELOPMENT.—To conduct private sector agricultural trade development activities in the appropriate developing country,[18] as determined appropriate by the Secretary.

(7) RESEARCH.—To conduct research in agriculture, forestry, and aquaculture, including collaborative research which is mutually beneficial to the United States and the appropriate developing country.[18]

(8) UNITED STATES OBLIGATIONS.—To make payments of United States obligations (including obligations entered into pursuant to other laws).

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[18] Sec. 205(2) of Public Law 104–127 (110 Stat. 953) struck out "recipient country" throughout subsec. (c) and inserted in lieu thereof "appropriate developing country".

[19] Sec. 205(2)(B) of Public Law 104–127 (110 Stat. 953) struck out "recipient countries" and inserted in lieu thereof "appropriate developing countries".

(d) FISCAL REQUIREMENTS REGARDING USE OF LOCAL CURRENCIES.—

(1) EXEMPTION.—Section 1306 of title 31, United States Code, shall not apply to local currencies used by the President under paragraphs (1) through (7) of subsection (c).

(2) USE OF CURRENCIES BY OTHER AGENCIES.—Any department or agency of the Federal Government other than the Department of Agriculture using any such local currencies for a purpose for which funds have been appropriated shall reimburse the Commodity Credit Corporation in an amount equivalent to the dollar value of the currencies used.

SEC. 105.[20] * * * [Repealed—1996]

TITLE II—EMERGENCY AND PRIVATE ASSISTANCE PROGRAMS[21]

SEC. 201.[22] **GENERAL AUTHORITY.**

The President shall establish a program under this title to provide agricultural commodities to foreign countries on behalf of the people of the United States to—

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[20] Formerly at 7 U.S.C. 1705. Sec. 206 of Public Law 104–127 (110 Stat. 953) repealed sec. 105, which had read as follows:

"SEC. 105. VALUE-ADDED FOODS.

"(a) POLICY.—Congress declares it to be the policy of the United States to assist developing countries that are or have been recipients of high protein, blended, or fortified foods under title II to continue to combat hunger and malnutrition among the lower income segments of the population of such countries, especially children, through the continued provision of such foods under this title.

"(b) PARTIAL WAIVER OF REPAYMENT.—In implementing the policy declared in subsection (a), the Secretary, in entering into agreements for the sale of high protein, blended, or fortified foods under this title with countries that—

"(1) provide assurances that the benefits of any waiver granted under this subsection will be passed on to the individual recipients of such foods; and

"(2) have a reasonable potential for transferring benefits of such waiver to commercial purchasers of such foods;

"may make provisions for a waiver of payment of not to exceed an amount equal to the value of that part of the product that is attributable to the costs of processing, enrichment, or fortification of such product.

"(c) MINIMIZE IMPACT.—In implementing this section, the Secretary shall, to the extent practicable, minimize the impact of this section on other commercial and concessional sales of whole grains.".

[21] Sec. 703 of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3349), provided the following:

"SEC. 703. ASSISTANCE FOR PRIVATE VOLUNTARY ORGANIZATIONS.

"The President is encouraged to use funds made available under section 109 of Public Law 102–229 (105 Stat. 1708), and funds made available under chapter 11 of part I of the Foreign Assistance Act of 1961, to assist private voluntary organizations and cooperatives in carrying out food assistance programs for the independent states of the former Soviet Union under—

"(1) section 1110 of the Food Security Act of 1985 (7 U.S.C. 1736o);

"(2) section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431); or

"(3) title II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1721 et seq.).".

In a memorandum of July 19, 1994, the President authorized "the release in fiscal year 1994 of up to 200,000 metric tons of wheat from the reserve established under the Act (the 'reserve') for use under Title II of the Agricultural Trade Development and Assistance Act of 1954 to meet relief needs that exist in the Caucasus region of the former Soviet Union, which I hereby determine are suffering severe food shortages. The wheat will be used to provide urgent humanitarian relief to the peoples in this region who are suffering widespread hunger and malnutrition.

"This action is taken because wheat needed for relief in this region cannot be programmed for such purpose in a timely manner under the normal means of obtaining commodities for food assistance due to circumstances of unanticipated and exceptional need." (Presidential Determination No. 94–36 of July 19, 1994; 59 F.R. 37153).

[22] 7 U.S.C. 1721.

(1) address famine or other urgent or extraordinary relief requirements;

(2) combat malnutrition, especially in children and mothers;

(3) carry out activities that attempt to alleviate the causes of hunger, mortality and morbidity;

(4) promote economic and community development;

(5) promote sound environmental practices; and

(6) carry out feeding programs.

Such program shall be implemented by the Administrator.

SEC. 202.[23] PROVISION OF AGRICULTURAL COMMODITIES.

(a) EMERGENCY ASSISTANCE.—Notwithstanding any other provision of law, the Administrator may provide agricultural commodities to meet emergency food needs under this title through governments and public or private agencies, including intergovernmental organizations such as the World Food Program and other multilateral organizations, in such manner and on such terms and conditions as the Administrator determines appropriate to respond to the emergency.

(b)[24] NONEMERGENCY ASSISTANCE.—

(1) IN GENERAL.—The Administrator may provide agricultural commodities for nonemergency assistance under this title through eligible organizations (as described in subsection (d)) that have entered into an agreement with the Administrator to use the commodities in accordance with this title.

(2) LIMITATION.—The Administrator may not deny a request for funds submitted under this subsection because the program for which the funds are requested—

(A) would be carried out by the eligible organization in a foreign country in which the Agency for International Development does not have a mission, office, or other presence; or

(B) is not part of a development plan for the country prepared by the Agency.

(3)[25] PROGRAM DIVERSITY.—The Administrator shall—

(A) encourage eligible organizations to propose and implement program plans to address 1 or more aspects of the program under section 201; and

(B) consider proposals that incorporate a variety of program objectives and strategic plans based on the identification by eligible organizations of appropriate activities, consistent with section 201, to assist development of foreign countries.

(c) USES OF ASSISTANCE.—Agricultural commodities provided under this title may be made available for direct distribution, sale, barter, or other appropriate disposition.

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[23] 7 U.S.C. 1722.

[24] Sec. 207(a)(1) of Public Law 104–127 (110 Stat. 953) amended and restated subsec. (b). It formerly read as follows:

"(b) NON-EMERGENCY ASSISTANCE.—The Administrator may provide agricultural commodities for non-emergency assistance under this title through eligible organizations (as described in subsection (d)) that have entered into an agreement with the Administrator to use such commodities in accordance with this title.".

[25] Sec. 3002(1) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 280) added para. (3).

(d) ELIGIBLE ORGANIZATIONS.—To be eligible to receive assistance under subsection (b) an organization shall be—

(1) a private voluntary organization or cooperative that is, to the extent practicable, registered with the Administrator; or

(2) an intergovernmental organization, such as the World Food Program.

(e)[26] SUPPORT FOR ELIGIBLE ORGANIZATIONS.—

(1) IN GENERAL.—Of the funds made available in each fiscal year under this title to the Administrator, not less than 5 percent nor more than 10 percent of the funds[27] shall be made available in each fiscal year to eligible organizations described in subsection (d), to assist the organizations[28] in—

(A) establishing new programs under this title; and

(B) meeting specific administrative, management, personnel and internal transportation and distribution costs for carrying out programs in foreign countries under this title.

(2)[29] REQUEST FOR FUNDS.—To receive funds made available under paragraph (1), an eligible organization described in subsection (d) shall submit a request for the funds that is subject to approval by the Administrator.

(3) ASSISTANCE WITH RESPECT TO SALE.—Upon the request of an eligible organization, the Administrator may provide assistance to the eligible organization[30] with respect to the sale of agricultural commodities made available to it under this title.

(f) EFFECTIVE USE OF COMMODITIES.—To ensure that agricultural commodities made available under this title are used effectively and in the areas of greatest need, organizations or cooperatives through which such commodities are distributed shall—

(1) to the extent feasible, work with indigenous institutions and employ indigenous workers;

(2) assess and take into account nutritional and other needs of beneficiary groups;

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[26] Sec. 207(a)(2)(A) of Public Law 104–127 (110 Stat. 953) struck out "PRIVATE VOLUNTARY ORGANIZATIONS AND COOPERATIVES" from the subsection catchline and inserted in lieu thereof "ELIGIBLE ORGANIZATIONS".

[27] Sec. 3002(2) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 280) struck out "not less than $10,000,000 and not more than $28,000,000" and inserted in lieu thereof "not less than 5 percent nor more than 10 percent of the funds". Previously, sec. 207(a)(2)(B)(i) of Public Law 104–127 (110 Stat. 953) struck out "$13,500,000" and inserted in lieu thereof "$28,000,000".

[28] Sec. 207(a)(2)(B)(ii) of Public Law 104–127 (110 Stat. 954) struck out "private voluntary organizations and cooperatives, to assist such organizations and cooperatives" and inserted in lieu thereof "eligible organizations described in subsection (d), to assist the organizations".

[29] Sec. 207(a)(2)(C) of Public Law 104–127 (110 Stat. 954) amended and restated para. (2). It formerly read as follows:

"(2) REQUEST FOR FUNDS.—In order to receive funds made available under paragraph (1), a private voluntary organization or cooperative must submit a request for such funds (which must be approved by the Administrator) when submitting a proposal to the Administrator for an agreement under this title. Such request for funds shall include a specific explanation of—

"(A) the program costs to be offset by such funds;

"(B) the reason why such funds are needed in carrying out the particular assistance program; and

"(C) the degree to which such funds will improve the provision of food assistance to foreign countries (particularly those in sub-Saharan Africa suffering from acute, long-term food shortages).".

[30] Sec. 207(a)(2)(D) of Public Law 104–127 (110 Stat. 954) struck out "a private voluntary organization or cooperative, the Administrator may provide assistance to that organization or cooperative" and inserted in lieu thereof "an eligible organization, the Administrator may provide assistance to the eligible organization".

(3) help such beneficiary groups design and carry out mutually acceptable projects;

(4) recommend to the Administrator methods of making assistance available that are the most appropriate for each local setting;

(5) supervise the distribution of commodities provided and the implementation of programs carried out under this title; and

(6) periodically evaluate the effectiveness of projects undertaken under this title.

(g) LABELING.—Commodities provided under this title shall, to the extent practicable, be clearly identified with appropriate markings on the package or container of such commodity in the language of the locality in which such commodities are distributed, as being furnished by the people of the United States of America.

(h)[31] STREAMLINED PROGRAM MANAGEMENT.—

(1) IMPROVEMENTS.—Not later than 1 year after the date of enactment of this subsection, the Administrator shall—

(A) streamline program procedures and guidelines under this title for agreements with eligible organizations for programs in 1 or more countries; and

(B) effective beginning with fiscal year 2004, to the maximum extent practicable, incorporate the changes into the procedures and guidelines for programs and the guidelines for resource requests.

(2) STREAMLINED PROCEDURES AND GUIDELINES.—In carrying out paragraph (1), the Administrator shall make improvements in the Office of Food for Peace management systems that include—

(A) expedition of and greater consistency in the program review and approval process under this title;

(B) streamlining of information collection and reporting systems by identifying the critical information that needs to be monitored and reported on by eligible organizations; and

(C) for approved programs, provision of greater flexibility for an eligible organization to make modifications in program activities to achieve program results with streamlined procedures for reporting such modifications.

(3) CONSULTATION.—

(A) IN GENERAL.—Paragraphs (1) and (2) shall be carried out in accordance with section 205 and subsections (b) and (c) of section 207.

(B) CONSULTATION WITH CONGRESSIONAL COMMITTEES.—Not later than 180 days after the date of enactment of this subsection, the Administrator shall consult with the Committee on Agriculture and the Committee on International Relations of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on progress made in carrying out this subsection.

[31] Sec. 3002(3) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 280) added subsec. (h).

(4) REPORT.—Not later than 270 days after the date of enactment of this subsection, the Administrator shall submit to the Committee on Agriculture and the Committee on International Relations of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the improvements made and planned upgrades in the information management, procurement, and financial management systems to administer this title.

SEC. 203.[32] GENERATION AND USE OF CURRENCIES BY PRIVATE VOLUNTARY ORGANIZATIONS AND COOPERATIVES.

(a) LOCAL SALE AND BARTER OF COMMODITIES.—An agreement entered into between the Administrator and a private voluntary organization or cooperative to provide food assistance through such organization or cooperative under this title may provide for the sale or barter in 1 or more recipient countries or 1 or more countries[33] in the same region,[34] of the commodities to be provided under such agreement.

(b) MINIMUM LEVEL OF LOCAL SALES.—In carrying out agreements of the type referred to in subsection (a), the Administrator shall permit private voluntary organizations and cooperatives to sell, 1 or more recipient countries, or in 1 or more countries[35] in the same region,[36] an amount of commodities equal to not less than 15 percent[37] of the aggregate amounts of all commodities distributed under non-emergency programs under this title for each fiscal year, to generate proceeds[38] to be used as provided in this section.

(c) DESCRIPTION OF INTENDED USES.—A private voluntary organization or cooperative submitting a proposal to enter into a non-emergency food assistance agreement under this title shall include in such proposal a description of the intended uses of any proceeds[39] that may be generated through the sale, in 1 or more recipient countries, or in 1 or more countries[40] in the same region,[41] of any commodities provided under an agreement entered into between the Administrator and the organization or cooperative.

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[32] 7 U.S.C. 1723. Sec. 3003(1) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 281) struck out "**FOREIGN**" before "**CURRENCIES**" in the section catchline.

[33] Sec. 3003(2) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 281) struck out "the recipient country, or in a country" and inserted in lieu thereof "1 or more recipient countries or 1 or more countries".

[34] Sec. 208(1) of Public Law 104–127 (110 Stat. 954) inserted ", or in a country in the same region," after "in the recipient country".

[35] Sec. 3003(3)(A) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 281) struck out "in recipient countries, or in countries" and inserted in lieu thereof "1 or more recipient countries, or in 1 or more countries".

[36] Sec. 208(2)(A) of Public Law 104–127 (110 Stat. 954) inserted "or in countries in the same region," after "in recipient countries,". See also above footnote.

[37] Sec. 208(2)(B) of Public Law 104–127 (110 Stat. 954) struck out "10 percent" and inserted in lieu thereof "15 percent".

[38] Sec. 3003(3)(B) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 281) struck out "foreign currency" before "proceeds".

[39] Sec. 3003(4)(A) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 282) struck out "foreign currency" before "proceeds".

[40] Sec. 3003(4)(B) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 282) struck out "the recipient country, or in a country" and inserted in lieu thereof "1 or more recipient countries, or in 1 or more countries".

[41] Sec. 208(3) of Public Law 104–127 (110 Stat. 954) inserted "or in a country in the same region," after "in the recipient country,". See also above footnote.

(d) USE.—Proceeds[42] generated from any partial or full sale or barter of commodities by a private voluntary organization or cooperative under a non-emergency food assistance agreement under this title may—

(1) be used to transport, store, distribute, and otherwise enhance the effectiveness of the use of agricultural commodities provided under this title;

(2) be used to implement income-generating,[43] community development, health, nutrition, cooperative development, agricultural, and other developmental activities within 1 or more recipient countries or within 1 or more countries[44] in the same region;[45] or

(3) be invested,[46] and any interest earned on such investment may be used,[46] for the purposes for which the assistance was provided to that organization, without further appropriation by Congress.

SEC. 204.[47] LEVELS OF ASSISTANCE.

(a) MINIMUM LEVELS.—

(1) MINIMUM ASSISTANCE.—Except as provided in paragraph (3), the Administrator shall make agricultural commodities available for food distribution under this title in an amount that for each of fiscal years 2002 through 2007 is not less than 2,500,000 metric tons.[48]

(2) MINIMUM NON-EMERGENCY ASSISTANCE.—Of the amounts specified in paragraph (1), and except as provided in paragraph (3), the Administrator shall make agricultural commodities available for non-emergency food distribution through eligible organizations under section 202 in an amount that for each of fiscal years 2002 through 2007 is not less than 1,870,000 metric tons.[49]

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[42] Sec. 3003(5)(A) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 282) struck out "Foreign currencies" and inserted in lieu thereof "Proceeds".

[43] Sec. 3003(5)(B)(i) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 282) struck out "income generating" and inserted in lieu thereof "income-generating".

[44] Sec. 3003(5)(B)(i) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 282) struck out "the recipient country or within a country" and inserted in lieu thereof "1 or more recipient countries or within 1 or more countries".

[45] Sec. 208(4) of Public Law 104–127 (110 Stat. 954) inserted "or within a country in the same region" after "within the recipient country". See also above footnote.

[46] Sec. 3003(5)(C) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 282) inserted a comma after "invested", and a comma after "used".

[47] 7 U.S.C. 1724.

[48] Sec. 3004 of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 282) struck out "1996 through 2002" and inserted in lieu thereof "2002 through 2007", and raised the minimum assistance level from "not less than 2,2025,000 metric tons" to "not less than 2,500,000 metric tons".

Previously, sec. 209(1)(A) of Public Law 104–127 (110 Stat. 954) struck out metric ton minimum assistance amounts for fiscal years 1991 through 1995, and inserted levels for fiscal years 1996 through 2002. Amounts for fiscal years 1991 through 1995 were: for fiscal year 1991, not less than 1,925,000 metric tons; fiscal year 1992, not less than 1,950,000 metric tons; fiscal year 1993, not less than 1,975,000 metric tons; fiscal year 1994, not less than 2,000,000 metric tons; and fiscal year 1995, not less than 2,025,000 metric tons.

[49] Sec. 3004 of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 282) struck out "1996 through 2002" and inserted in lieu thereof "2002 through 2007", and raised the minimum level for non-emergency assistance from "not less than 1,550,000 metric tons" to "not less than 1,875,000 metric tons".

Previously, sec. 209(1)(B) of Public Law 104–127 (110 Stat. 954) struck out metric ton minimum non-emergency assistance amounts for fiscal years 1991 through 1995, and inserted levels for fiscal years 1996 through 2002. Amounts for fiscal years 1991 through 1995 were: for fiscal year 1991, is not less than 1,450,000 metric tons; fiscal year 1992, is not less than 1,475,000

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(3) EXCEPTION.—The Administrator may waive the requirements of paragraphs (1) and (2) for any fiscal year if the Administrator determines that such quantities of commodities cannot be used effectively to carry out this title or in order to meet an emergency. In making a waiver under this paragraph, the Administrator shall prepare and submit to the Committees on International Relations, Agriculture and Appropriations of the House of Representatives, and the Committees on Appropriations and Agriculture, Nutrition, and Forestry of the Senate[50] a report containing the reasons for the waiver. No waiver shall be made before the beginning of the applicable fiscal year.[51]

(b) USE OF VALUE-ADDED COMMODITIES.—

(1) MINIMUM LEVELS.—Except as provided in paragraph (2), in making agricultural commodities available under this title, the Administrator shall ensure that not less than 75 percent of the quantity of such commodities required to be distributed during each fiscal year under subsection (a)(2) be in the form of processed, fortified, or bagged commodities and that not less than 50 percent of the quantity of the bagged commodities that are whole grain commodities be bagged in the United States.[52]

(2) WAIVER OF MINIMUM.—The Administrator may waive the requirement of paragraph (1) for any fiscal year in which the Administrator determines that the requirements of the programs established under this title will not be best served by the enforcement of such requirement under such paragraph.

SEC. 205.[53] FOOD AID CONSULTATIVE GROUP.

(a) ESTABLISHMENT.—There is established a Food Aid Consultative Group (hereinafter referred to in this section as the "Group") that shall meet regularly to review and address issues concerning the effectiveness of the regulations and procedures that govern food assistance programs established and implemented under this title, and the implementation of other provisions of this title that may involve eligible organizations described in section 202(d)(1).[54]

(b) MEMBERSHIP.—The Group shall be composed of—

(1) the Administrator;

(2) the Under Secretary of Agriculture for Farm and Foreign Agricultural Service;[55]

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metric tons; fiscal year 1993, is not less than 1,500,000 metric tons; fiscal year 1994, is not less than 1,525,000 metric tons; and fiscal year 1995, is not less than 1,550,000 metric tons.

[50] Sec. 758 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2004 (division A of Public Law 108–199; 118 Stat. 38) struck out "Committee on Foreign Affairs and Committee on Agriculture of the House of Representatives and the Committee on" and inserted in lieu thereof "Committees on International Relations, Agriculture and Appropriations of the House of Representatives, and the Committees on Appropriations and".

[51] Sec. 209(1)(C) of Public Law 104–127 (110 Stat. 955) added the last sentence to para. (3).

[52] Sec. 209(2) of Public Law 104–127 (110 Stat. 955) added "and that not less than 50 percent of the quantity of the bagged commodities that are whole grain commodities be bagged in the United States" at the end of the sentence.

[53] 7 U.S.C. 1725.

[54] Sec. 210(1) of Public Law 104–127 (110 Stat. 955) struck out "private voluntary organizations, cooperatives and indigenous non-governmental organizations" and inserted in lieu thereof "eligible organizations described in section 202(d)(1)".

[55] Sec. 210(2)(A) of Public Law 104–127 (110 Stat. 955) struck out "for International Affairs and Commodity Programs" and inserted in lieu thereof "of Agriculture for Farm and Foreign Agricultural Service".

(3) the Inspector General of the Agency for International Development;

(4) a representative of each private voluntary organization and cooperative participating in a program under this title, or receiving planning assistance funds from the Agency to establish programs under this title;[56]

(5) representatives from African, Asian and Latin American indigenous non-governmental organizations determined appropriate by the Administrator; and[56]

(6)[56] representatives from agricultural producer groups in the United States.

(c) CHAIRPERSON.—The Administrator shall be the chairperson of the Group.

(d) CONSULTATIONS.—In preparing regulations, handbooks, or guidelines implementing this title, or significant revisions thereto, the Administrator shall provide such proposals to the Group for review and comment. The Administrator shall consult and, when appropriate (but at least twice per year),[57] meet with the Group regarding such proposed regulations, handbooks, guidelines, or revisions thereto prior to the issuance of such.

(e) ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Group.

(f) TERMINATION.—The Group shall terminate on December 31, 2007.[58]

SEC. 206.[59] * * * [Repealed—2002]

SEC. 207.[60] **ADMINISTRATION.**

(a) PROPOSALS.—

(1)[61] RECIPIENT COUNTRIES.—A proposal to enter into a non-emergency food assistance agreement under this title shall identify the recipient country or countries that are the subject of the agreement.

(2)[61] TIMING.—Not later than 120 days after the date of receipt by the Administrator of a proposal submitted by an eligible organization under this title, the Administrator shall determine whether to accept the proposal.

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[56] Sec. 210(2) of Public Law 104–127 (110 Stat. 955) struck out "and" at the end of para. (4); struck out the period at the end of para. (5) and inserted instead "; and"; and added a new para. (6).

[57] Sec. 210(3) of Public Law 104–127 9110 Stat. 955) added parenthetical text.

[58] Sec. 3005 of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 282) struck out "2002" and inserted in lieu thereof "2007". Previously, sec. 210(4) of Public Law 104–127 (110 Stat. 955) struck out "1995" and inserted in lieu thereof "2002".

[59] Formerly at 7 U.S.C. 1726. Sec. 3006 of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 282) repealed sec. 206, which read as follows:

"SEC. 206. MAXIMUM LEVEL OF EXPENDITURES.

"(a) MAXIMUM EXPENDITURES.—Except as provided in subsection (b), programs of assistance shall not be undertaken under this title during any fiscal year if such programs necessitate an appropriation of more than $1,000,000,000 to reimburse the Commodity Credit Corporation for all costs incurred in connection with such programs (including the Corporation's investment in commodities made available).

"(b) WAIVER BY PRESIDENT.—The President may waive the limitation contained in subsection (a) if the President determines that such waiver is necessary to undertake programs of assistance to meet urgent humanitarian or emergency needs.".

[60] 7 U.S.C. 1726a.

[61] Sec. 3007(1) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 282) redesignated para. (2) as para. (3), struck out para. (1), and added new paras. (1) and (2).

(3)[61] DENIAL.—If a proposal under paragraph (1) is denied, the response shall specify the reasons for denial and the conditions that must be met for the approval of such proposal.

(b) NOTICE AND COMMENT.—Not later than 30 days prior to the issuance of a final guideline or annual policy guidance[62] to carry out this title, the Administrator shall—

(1) provide notice of the existence of a proposed guideline or annual policy guidance,[62] and that such guideline or annual policy guidance[62] is available for review and comment, to eligible organizations[63] that participate in programs under this title, and to other interested persons;

(2) make the proposed guideline or annual policy guidance[62] available, on request, to the eligible organizations,[64] and other persons referred to in paragraph (1); and

(3) take any comments received into consideration prior to the issuance of the final guideline or annual policy guidance.[62]

(c) REGULATIONS.—

(1) IN GENERAL.—The Administrator shall promptly issue all necessary regulations and make revisions to agency guidelines with respect to changes in the operation or implementation of the program established under this title.

(2) REQUIREMENTS.—The Administrator shall develop regulations with the intent of—

(A) simplifying procedures for participation in the programs established under this title;

(B) reducing paperwork requirements under such programs;

(C) establishing reasonable and realistic accountability standards to be applied to eligible organizations participating in the programs established under this title, taking into consideration the problems associated with carrying out programs in developing countries; and

(D) providing flexibility for carrying out programs under this title.

(3) HANDBOOKS.—Handbooks developed by the Administrator to assist in carrying out the program under this title shall be designed to foster the development of programs under this title by eligible organizations.

(d) DEADLINE FOR SUBMISSION OF COMMODITY ORDERS.—Not later than 15 days after receipt from a United States field mission of a call forward for agricultural commodities for programs that meet the requirements of this title, the order for the purchase or the supply, from inventory, of such commodities or products shall be transmitted to the Commodity Credit Corporation.

(e)[65] TIMELY APPROVAL.—

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[62] Sec. 3007(2) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 282) struck out "guideline" throughout subsec. (b), and inserted in lieu thereof "guideline or annual policy guidance".

[63] Sec. 207(b)(2)(A) of Public Law 104–127 (110 Stat. 954) struck out "private voluntary organizations and cooperatives" and inserted in lieu thereof "eligible organizations".

[64] Sec. 207(b)(2)(B) of Public Law 104–127 (110 Stat. 954) struck out "organizations, cooperatives" and inserted in lieu thereof "eligible organizations".

[65] Sec. 3007(3) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 282) added subsec. (e).

(1) IN GENERAL.—The Administrator is encouraged to finalize program agreements and resource requests for programs under this section before the beginning of each fiscal year.

(2) REPORT.—Not later than December 1 of each year, the Administrator shall submit to the Committee on Agriculture and the Committee on International Relations of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that contains—

(A) a list of programs, countries, and commodities approved to date for assistance under this section; and

(B) a statement of the total amount of funds approved to date for transportation and administrative costs under this section.

SEC. 208.[66] ASSISTANCE FOR STOCKPILING AND RAPID TRANSPORTATION, DELIVERY, AND DISTRIBUTION OF SHELF-STABLE PREPACKAGED FOODS.

(a) IN GENERAL.—The Administrator may provide grants to—

(1) United States nonprofit organizations (described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of the Internal Revenue Code of 1986) for the preparation of shelf-stable prepackaged foods requested by eligible organizations and the establishment and maintenance of stockpiles of the foods in the United States; and

(2) private voluntary organizations and international organizations for the rapid transportation, delivery, and distribution of shelf-stable prepackaged foods described in paragraph (1) to needy individuals in foreign countries.

(b) GRANTS FOR ESTABLISHMENT OF STOCKPILES.—

(1) IN GENERAL.—Not more than 70 percent of the amount made available to carry out this section shall be used to provide grants under subsection (a)(1).

(2) PRIORITY.—In providing grants under subsection (a)(1), the Administrator shall provide a preference to a United States nonprofit organization that agrees to provide—

(A) non-Federal funds in an amount equal to 50 percent of the amount of funds received under a grant under subsection (a)(1);

(B) an in-kind contribution in an amount equal to that percentage; or

(C) a combination of such funds and an in-kind contribution,

for the preparation of shelf-stable prepackaged foods and the establishment and maintenance of stockpiles of the foods in the United States in accordance with subsection (a)(1).

(c) GRANTS FOR RAPID TRANSPORTATION, DELIVERY, AND DISTRIBUTION.—Not less than 20 percent of the amount made available to carry out this section shall be used to provide grants under subsection (a)(2).

[66] 7 U.S.C. 1726b. Added by sec. 310(a) of the Grain Standards and Warehouse Improvement Act of 2000 (Public Law 106–472; 114 Stat. 2075).

(d) ADMINISTRATION.—Not more than 10 percent of the amount made available to carry out this section may be used by the Administrator for the administration of grants under subsection (a).

(e) REGULATIONS OR GUIDELINES.—Not later than 180 days after the date of the enactment of this section, the Administrator, in consultation with the Secretary, shall issue such regulations or guidelines as the Administrator determines to be necessary to carry out this section, including regulations or guidelines that provide to United States nonprofit organizations eligible to receive grants under subsection (a)(1) guidance with respect to the requirements for qualified shelf-stable prepackaged foods and the quantity of the foods to be stockpiled by the organizations.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator to carry out this section, in addition to amounts otherwise available to carry out this section, $3,000,000 for each of fiscal years 2001 through 2007,[67] to remain available until expended.

TITLE III—FOOD FOR DEVELOPMENT

SEC. 301.[68] BILATERAL GRANT PROGRAM.

(a) IN GENERAL.—The President shall establish a program under which agricultural commodities are donated in accordance with this title to least developed countries. The revenue generated by the sale of such commodities in the recipient country may be utilized for economic development activities. Such program shall be implemented by the Administrator.

(b) GENERAL AUTHORITY.—To carry out the policies and accomplish the objectives described in section 2, the Administrator may negotiate and execute agreements with least developed countries to provide commodities to such countries on a grant basis.

SEC. 302.[69] ELIGIBLE COUNTRIES.

(a) LEAST DEVELOPED COUNTRIES.—A country shall be considered to be a least developed country and eligible for the donation of agricultural commodities under this title if—

(1) such country meets the poverty criteria established by the International Bank for Reconstruction and Development for Civil Works Preference for providing financial assistance; or

(2) such country is a food deficit country and is characterized by high levels of malnutrition among significant numbers of its population, as determined by the Administrator under subsection (b).

(b) INDICATORS OF FOOD DEFICIT COUNTRIES.—To make a finding under subsection (a)(2) that a country is a food deficit country and is characterized by high levels of malnutrition, the Administrator must determine that the country meets all of the following indicators of national food deficit and malnutrition:

(1) CALORIE CONSUMPTION.—That the daily per capita calorie consumption of the country is less than 2300 calories.

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[67] Sec. 3008 of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 283) struck out "and 2002" and inserted in lieu thereof "through 2007".

[68] 7 U.S.C. 1727.

[69] 7 U.S.C. 1727a.

(2) FOOD SECURITY REQUIREMENTS.—That the country cannot meet its food security requirements through domestic production or imports due to a shortage of foreign exchange earnings.

(3) CHILD MORTALITY RATE.—That the mortality rate of children under 5 years of age in the country is in excess of 100 per 1000 births.

(c) PRIORITY.—In determining whether and to what extent agricultural commodities shall be made available to least developed countries under this title, the Administrator shall give priority to countries that—

(1) demonstrate the greatest need for food;

(2) demonstrate the capacity to use food assistance effectively;

(3) have demonstrated a commitment to policies to promote food security, including policies to reduce measurably hunger and malnutrition through efforts such as establishing and institutionalizing supplemental nutrition programs targeted to reach those who are nutritionally at risk; and

(4) have a long-term plan for broad-based, equitable, and sustainable development.

SEC. 303.[70] GRANT PROGRAMS.

To carry out the policies and accomplish the objectives described in section 2, the Administrator may negotiate and execute agreements with least developed countries to provide commodities to such countries on a grant basis either through the Commodity Credit Corporation or through private trade channels.

SEC. 304.[71] DIRECT USES OR SALES OF COMMODITIES.

Agricultural commodities provided to a least developed country under this section—

(1) may be used in such country for—

(A) direct feeding programs, including programs that include activities that deal directly with the special health needs of children and mothers consistent with section 104(c)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c)(2)), relating to the Child Survival Fund; or

(B) the development of emergency food reserves; or

(2) may be sold in such country by the government of the country or the Administrator (or their designees) as provided in the agreement, and the proceeds of such sale used in accordance with this title.

SEC. 305.[72] LOCAL CURRENCY ACCOUNTS.

(a) RETENTION OF PROCEEDS.—To the extent determined to be appropriate by the Administrator, revenues generated from the sale, under section 304(2), of agricultural commodities provided under this title shall be deposited into a separate account (that may be interest bearing) in the recipient country to be disbursed for the benefit of such country in accordance with local currency agreements entered into between the recipient country and the Ad-

[70] 7 U.S.C. 1727b.
[71] 7 U.S.C. 1727c.
[72] 7 U.S.C. 1727d.

ministrator. The Administrator may determine not to deposit such revenues in a separate account if—

(1) local currencies are to be programmed for specific economic development purposes listed in section 306(a); and

(2) the recipient country programs an equivalent amount of money for such purposes as specified in an agreement entered into by the Administrator and the recipient country.

(b) OWNERSHIP AND PROGRAMMING OF ACCOUNTS.—The proceeds of sales pursuant to section 304(2) shall be the property of the recipient country or the United States, as specified in the applicable agreement. Such proceeds shall be utilized for the benefit of the recipient country, shall be jointly programmed by the Administrator and the government of the recipient country, and shall be disbursed for the benefit of such country in accordance with local currency agreements between the Administrator and that government.

(c) OVERALL DEVELOPMENT STRATEGY.—The Administrator shall consider the local currency proceeds as an integral part of the overall development strategy of the Agency for International Development and the recipient country.

SEC. 306.[73] USE OF LOCAL CURRENCY PROCEEDS.

(a) IN GENERAL.—The local currency proceeds of sales pursuant to section 304(2) shall be used in the recipient country for specific economic development purposes, including—

(1) the promotion of specific policy reforms to improve food security and agricultural development within the country and to promote broad-based, equitable, and sustainable development;

(2) the establishment of development programs, projects, and activities that promote food security, alleviate hunger, improve nutrition, and promote family planning, maternal and child health care, oral rehydration therapy, and other child survival objectives consistent with section 104(c)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c)(2)), relating to the Child Survival Fund;

(3) the promotion of increased access to food supplies through the encouragement of specific policies and programs designed to increase employment and incomes within the country;

(4) the promotion of free and open markets through specific policies and programs;

(5) support for United States private voluntary organizations and cooperatives and encouragement of the development and utilization of indigenous nongovernmental organizations;

(6) the purchase of agricultural commodities (including transportation and processing costs) produced in the country—

(A) to meet urgent or extraordinary relief requirements in the country or in neighboring countries; or

(B) to develop emergency food reserves;

(7) the purchase of goods and services (other than agricultural commodities and related services) to meet urgent or extraordinary relief requirements;

[73] 7 U.S.C. 1727e.

(8) the payment, to the extent practicable, of the costs of carrying out the program authorized in title V;

(9) private sector development activities designed to further the policies set forth in section 2, including loans to financial intermediaries for use in making loans to private individuals, cooperatives, corporations, or other entities;

(10) activities of the Peace Corps that relate to agricultural production;

(11) the development of rural infrastructure such as roads, irrigation systems, and electrification to enhance agricultural production;

(12) research on malnutrition and its causes, as well as research relating to the identification and application of policies and strategies for targeting resources made available under this section to address the problem of malnutrition; and

(13) support for research (including collaborative research which is mutually beneficial to the United States and the recipient country), education, and extension activities in agricultural sciences.

Section 1306 of title 31, United States Code, shall not apply to the use under this subsection of local currency proceeds that are owned by the United States.

(b)[74] SUPPORT OF NON-GOVERNMENTAL ORGANIZATIONS.—To the extent practicable, not less than 10 percent of the amounts contained in an account established for a recipient country under section 305(a) shall be used by such country to support the development and utilization of[75] nongovernmental organizations and cooperatives that are active in rural development, agricultural education, sustainable agricultural production, other measures to assist poor people, and environmental protection projects within such country.

(c) INVESTMENT OF LOCAL CURRENCIES BY NONGOVERNMENTAL ORGANIZATIONS.—A nongovernmental organization may invest local currencies that accrue to that organization as a result of assistance under subsection (a), and any interest earned on such investment may be used for the purpose for which the assistance was provided to that organization without further appropriation by the Congress.

(d) SUPPORT FOR CERTAIN EDUCATIONAL INSTITUTIONS.—If the Administrator determines that local currencies deposited in a special account pursuant to this title are not needed for any of the activities prescribed in paragraphs (1) through (13) of subsection (a) or for any other specific economic development purpose in the recipient country, the Administrator may use those currencies to provide support for any institution (other than an institution whose primary purpose is to provide religious education) located in the recipient country that provides education in agricultural sciences or other disciplines for a significant number of United States nationals (who may include members of the United States Armed Forces or the Foreign Service or dependents of such members).

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[74] Sec. 211(a)(1) of Public Law 104–127 (110 Stat. 955) struck out "INDIGENOUS" before "NON-GOVERNMENTAL" in the subsection heading.

[75] Sec. 211(a)(2) of Public Law 104–127 (110 Stat. 955) struck out "indigenous" before "nongovernmental organizations".

TITLE IV—GENERAL AUTHORITIES AND REQUIREMENTS

SEC. 401.[76] COMMODITY DETERMINATIONS.

(a) AVAILABILITY OF COMMODITIES.—No agricultural commodity shall be available for disposition under this Act if the Secretary determines that the disposition would reduce the domestic supply of the commodity below the supply needed to meet domestic requirements and provide adequate carryover (as determined by the Secretary), unless the Secretary determines that some part of the supply should be used to carry out urgent humanitarian purposes under this Act.

(b)[76] INELIGIBLE COMMODITIES.—

(1) ALCOHOLIC BEVERAGES.—Alcoholic beverages shall not be made available for disposition under this Act.

(2) TOBACCO.—Tobacco or the products thereof shall not be made available under section 303 or title II of this Act.

(c)[76] MARKET DEVELOPMENT ACTIVITIES.—Subsection (b)(1)[77] shall not be construed to prohibit representatives of the United States wine, beer, distilled spirits, or other alcoholic beverage industry from participating in agricultural market development activities carried out by the Secretary with foreign currencies made available under title I of this Act.

SEC. 402.[78] DEFINITIONS.

As used in this Act:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Agency for International Development, unless otherwise specified in this Act.

(2) AGRICULTURAL COMMODITY.—The term "agricultural commodity", unless otherwise provided for in this Act, includes any agricultural commodity or the products thereof produced in the United States, including wood and processed wood products, fish, and livestock as well as value-added, fortified, or high-value agricultural products. Effective beginning on October 1, 1991, for purposes of title II, a product of an agricultural commodity shall not be considered to be produced in the United

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[76] 7 U.S.C. 1731. Sec. 212 of Public Law 104–127 (110 Stat. 955) amended and restated subsec. (a), struck out subsecs. (b) through (d), and redesignated subsecs. (e) and (f) as subsecs. (b) and (c). Former subsecs. (b) through (d) read as follows:

"(a) AVAILABLE COMMODITIES.—After consulting with other agencies of the Federal Government affected and within policies established by the President for implementing this Act, and after taking into consideration productive capacity, domestic requirements, farm and consumer price levels, commercial exports, and adequate carryover, the Secretary shall determine, prior to the beginning of each fiscal year, the agricultural commodities and quantities thereof available for disposition under this Act.

"(b) MODIFICATION.—The Secretary may, during the fiscal year, modify a determination made under subsection (a) if the Secretary provides to the Congress prior notice of that modification (including a statement of the reasons for the modification).

"(c) COMMODITIES NOT AVAILABLE.—No commodity shall be available for disposition under this Act if such disposition would reduce the domestic supply of such commodity below that needed to meet domestic requirements, adequate carryover, and anticipated exports for dollars as determined by the Secretary, unless the Secretary determines that some part of the supply should be used to carry out urgent humanitarian purposes under this Act.

"(d) POLICIES FOR IMPLEMENTING ACT.—The Secretary shall, to the extent practicable, seek to maintain a stable level of available agricultural commodities under this Act of the kind and type needed to provide food assistance to developing countries and should attempt to make such commodities available to the degree necessary to fulfill multi-year agreements entered into under this Act.".

[77] Sec. 212(3) of Public Law 104–127 (110 Stat. 956) struck out "(e)(1)" and inserted in lieu thereof "(b)(1)".

[78] 7 U.S.C. 1732.

States if it contains any ingredient that is not produced in the United States, if that ingredient is produced and is commercially available in the United States at fair and reasonable prices.

(3) COOPERATIVE.—The term "cooperative" means a private sector organization whose members own and control the organization and share in its services and its profits and that provides business services and outreach in cooperative development for its membership.

(4) DEVELOPING COUNTRY.—The term "developing country" means a country that has a shortage of foreign exchange earnings and has difficulty meeting all of its food needs through commercial channels.

(5) FOOD SECURITY.—The term "food security" means access by all people at all times to sufficient food and nutrition for a healthy and productive life.

(6)[79] NONGOVERNMENTAL ORGANIZATION.—The term "nongovernmental organization" means an organization that works at the local level to solve development problems in a foreign country in which the organization is located, except that the term does not include an organization that is primarily an agency or instrumentality of the government of the foreign country.

(7) PRIVATE VOLUNTARY ORGANIZATION.—The term "private voluntary organization" means a not-for-profit, nongovernmental organization (in the case of a United States organization, an organization that is exempt from Federal income taxes under section 501(c)(3) of the Internal Revenue Code of 1986) that receives funds from private sources, voluntary contributions of money, staff time, or in-kind support from the public, and that is engaged in or is planning to engage in voluntary, charitable, or development assistance activities (other than religious activities).

(8) SECRETARY.—The term "Secretary" means the Secretary of Agriculture, unless otherwise specified in this Act.

SEC. 403.[80] GENERAL PROVISIONS.

(a) PROHIBITION.—No agricultural commodity shall be made available under this Act unless it is determined that—

(1) adequate storage facilities will be available in the recipient country at the time of the arrival of the commodity to prevent the spoilage or waste of the commodity; and

(2) the distribution of the commodity in the recipient country will not result in a substantial disincentive to or interference with domestic production or marketing in that country.

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[79] Sec. 211(b) of Public Law 104–127 (110 Stat. 955) amended and restated para. (6). It formerly read as follows:

"(6) INDIGENOUS NONGOVERNMENTAL ORGANIZATION.—The term 'indigenous nongovernmental organization' means an organization that operates under the laws of the recipient country, or that has its principal place of activity in such country, and that works at the local level to solve development problems in the foreign country in which it is located, except that the term does not include an organization that is primarily an agent or instrumentality of the foreign government.".

[80] 7 U.S.C. 1733.

(b)[81] IMPACT ON LOCAL FARMERS AND ECONOMY.—The Secretary or the Administrator, as appropriate, shall[82] ensure that the importation of United States agricultural commodities and the use of local currencies for development purposes will not have a disruptive impact on the farmers or the local economy of the recipient country.

(c) TRANSSHIPMENT.—The Secretary or the Administrator, as appropriate, shall, under such terms and conditions as are determined to be appropriate, require commitments[83] designed to prevent or restrict the resale or transshipment to other countries, or use[84] for other than domestic purposes, of agricultural commodities donated or purchased under this Act.

(d) PRIVATE TRADE CHANNELS AND SMALL BUSINESS.—Private trade channels shall be used under this Act to the maximum extent practicable in the United States and in the recipient countries with respect to—

(1) sales from privately owned stocks;

(2) sales from stocks owned by the Commodity Credit Corporation; and

(3) donations.

Small businesses shall be provided adequate and fair opportunity to participate in such sales.

(e) WORLD PRICES.—(1) IN GENERAL.—In carrying[85] out this Act, reasonable precautions shall be taken to assure that sales or donations of agricultural commodities will not unduly disrupt world prices for agricultural commodities or normal patterns of commercial trade with foreign countries.

(2)[86] SALE PRICE.—Sales of agricultural commodities described in paragraph (1) shall be made at a reasonable market price in the economy where the agricultural commodity is to be sold, as determined by the Secretary or the Administrator, as appropriate.

(f) PUBLICITY.—Commitments shall be obtained from countries or private entities, as appropriate,[87] receiving commodities under this Act that such countries or private entities[88] will widely publicize, to the extent practicable, through the use of the public media and through other means, that such commodities are being provided through the friendship of the American people as food for peace.

(g) PARTICIPATION OF PRIVATE SECTOR.—The Secretary or the Administrator, as appropriate, shall encourage the private sector of

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[81] Sec. 213(1)(A) of Public Law 104–127 (110 Stat. 956) struck out the subsec. heading "Consultations" and inserted in lieu thereof "Impact on Local Farmers and Economy".

[82] Sec. 213(1)(B) of Public Law 104–127 (110 Stat. 956) struck out "consult with representatives from the International Monetary Fund, the International Bank for Reconstruction and Development, the World Bank, and other donor organizations to" after "shall".

[83] Sec. 213(2)(A) of Public Law 104–127 (110 Stat. 956) struck out "from countries" after "commitments".

[84] Sec. 213(2)(B) of Public Law 104–127 (110 Stat. 956) struck out "for use" and inserted in lieu thereof "or use".

[85] Sec. 3009(a)(1)(A) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 283) struck out "In carrying" and inserted in lieu thereof "(1) IN GENERAL.—In carrying".

[86] Sec. 3009(a)(1)(B) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 283) added para. (2).

[87] Sec. 213(3)(A) of Public Law 104–127 (110 Stat. 956) inserted "or private entities, as appropriate" after "from countries".

[88] Sec. 213(3)(B) of Public Law 104–127 (110 Stat. 956) inserted "or private entities" after "such countries".

the United States and private importers in developing countries to participate in the programs established under this Act.

(h) SAFEGUARD USUAL MARKETINGS.—In carrying out this Act, reasonable precautions shall be taken to safeguard the usual marketings of the United States and to avoid displacing any sales of the United States agricultural commodities that the Secretary or Administrator determines would otherwise be made.

(i) MILITARY DISTRIBUTION OF FOOD AID.—

(1) IN GENERAL.—The Secretary or the Administrator, as appropriate, shall attempt to ensure that agricultural commodities made available under this Act will be provided without regard to the political affiliation, geographic location, ethnic, tribal, or religious identity of the recipient or without regard to other extraneous factors.

(2)[89] PROHIBITION ON HANDLING OF COMMODITIES BY THE MILITARY.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary or the Administrator, as appropriate, shall not enter into an agreement under this Act to provide agricultural commodities if such agreement requires or permits the distribution, handling, or allocation of such commodities by the military forces of any government or insurgent group.

(B) EXCEPTION.—Notwithstanding subparagraph (A), the Secretary or the Administrator, as appropriate, may authorize the handling or distribution of commodities by the military forces of a country in exceptional circumstances in which—

(i) nonmilitary channels are not available for such handling or distribution;

(ii) such action is consistent with the requirements of paragraph (1); and

(iii) the Secretary or the Administrator, as appropriate, determines that such action is necessary to meet the emergency health, safety, or nutritional requirements of the recipient population.

(3) ENCOURAGEMENT OF SAFE PASSAGE.—When entering into agreements under this Act that involve areas within recipient countries that are experiencing protracted warfare or civil strife, the Secretary or the Administrator, as appropriate, shall, to the extent practicable, encourage all parties to the conflict to permit safe passage of the commodities and other relief supplies and to establish safe zones for medical and humanitarian treatment and evacuation of injured persons.

(j)[90] VIOLATIONS OF HUMAN RIGHTS.—

(1) INELIGIBLE COUNTRIES.—The Secretary or the Administrator, as appropriate, shall not enter into any agreement under this Act to provide agricultural commodities, or to fi-

[89] Sec. 213(4) of Public Law 104–127 (110 Stat. 956) struck out subpara. (C), which had required the Secretary or Administrator to report to Congress within 30 days of an authorization under subpara. (B).

[90] Sec. 4(b) of Executive Order No. 12752 of February 25, 1991 (56 F.R. 8255; February 27, 1991) (redesignated as sec. 4(a) by Executive Order 13044 of April 18, 1997), delegated to the Secretary of State the function conferred to the President in sec. 403(j).

nance the sale of agricultural commodities, to the government of any country determined by the President to engage in a consistent pattern of gross violations of internationally recognized human rights, including—

(A) the torture or cruel, inhuman, or degrading treatment or punishment of individuals;

(B) the prolonged detention of individuals without charges;

(C) the responsibility for causing the disappearance of individuals through the abduction and clandestine detention of such individuals; or

(D) other flagrant denials of the right to life, liberty, and the security of persons.

(2) WAIVER.—Paragraph (1) shall not prohibit the provision of assistance to such a country if the assistance is targeted to the most needy people in such country and is made available in such country through channels other than the government.

(k) ABORTION PROHIBITION.—Local currencies that are made available for use under this Act may not be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions.

(l)[91] SALE PROCEDURE.—

(1) IN GENERAL.—Subsections (b) and (h) shall apply to sales of commodities in recipient countries to generate proceeds to carry out projects under—

(A) titles I and II;

(B) section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)); and

(C) the Food for Progress Act of 1985 (7 U.S.C. 1736o).

(2) CURRENCY.—A sale described in paragraph (1) may be made in United States dollars or other currencies.

SEC. 404.[92] AGREEMENTS.

(a) IN GENERAL.—Before entering into agreements with foreign countries[93] under titles I and III for the provision of commodities, the Secretary or the Administrator, as appropriate, shall consider the extent to which the recipient country is undertaking measures for economic development purposes in order to improve food security and agricultural development, alleviate poverty, and promote broad-based, equitable, and sustainable development.

(b) TERMS OF AGREEMENT.—An agreement entered into under this Act shall—

(1) include an estimate of the annual value or volume of agricultural commodities proposed to be made available to the country or eligible organization under the agreement;

(2) with respect to agreements entered into with foreign countries[94] under titles I and III, include a statement of the manner in which the agricultural commodities provided under

[91] Sec. 3009(a)(2) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 283) added subsec. (l).

[92] 7 U.S.C. 1734.

[93] Sec. 214(1) of Public Law 104–127 (110 Stat. 956) inserted "with foreign countries" after "into agreements".

[94] Sec. 214(2)(A) of Public Law 104–127 (110 Stat. 956) inserted "with foreign countries" after "agreements entered into".

the agreement or the revenues generated by the sale of such commodities (if such commodities are sold), will be integrated into the overall development plans of the country to improve food security and agricultural development, alleviate poverty, and promote broad-based, equitable, and sustainable agriculture and broad-based economic growth;[95]

(3) with respect to agreements entered into under titles I and III, include a statement of the manner in which competitive private sector participation within the recipient country in the storage, marketing, transportation, and distribution of agricultural commodities made available under this Act will be encouraged;

(4) include a statement that such agreement shall be subject to the availability, during each fiscal year to which the agreement applies, of the necessary appropriations and agricultural commodities; and

(5) contain such other terms and conditions as the Secretary or the Administrator, as appropriate, determines to be necessary.

(c) MULTI-YEAR AGREEMENTS.—

(1)[96] IN GENERAL.—Agreements to provide assistance on a multi-year basis to recipient countries or to eligible organizations—

(A) may be made available under titles I and III; and

(B) shall be made available under title II.

(2) EXCEPTION.—The Secretary or the Administrator, as appropriate, may determine not to make assistance available on a multi-year basis with respect to a recipient country or an eligible organization if it is determined that assistance should be provided to such country or through such organization only on an annual basis because—

(A) the past performance of the country or organization in meeting program objectives does not warrant a multi-year agreement;

(B) it is anticipated that the need of the country or organization for food aid does not extend beyond 1 year; or

(C) other circumstances, as determined by the Secretary or the Administrator, as appropriate, indicate there is only a need for a 1 year agreement.

(d) REVIEW OF AGREEMENTS.—The Secretary or the Administrator, as appropriate, may make a determination to terminate, or refuse to enter into, a multi-year agreement with respect to a recipient country if the Secretary or the Administrator determines that such country is not fulfilling the objectives or requirements of this Act. In making such a determination, the Secretary or the Administrator, as appropriate, may consider the extent to which the country is—

(1) making significant economic development reforms;

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[95] Sec. 214(2)(B) of Public Law 104–127 (110 Stat. 956) inserted "and broad-based economic growth" before the semicolon.

[96] Sec. 214(3) of Public Law 104–127 (110 Stat. 956) amended and restated para. (1), which formerly read as follow:

"(1) IN GENERAL.—Agreements to provide assistance on a multi-year basis under this Act shall be made available to recipient countries or to eligible organizations.".

(2) promoting free and open markets for food and agricultural producers; and

(3) fostering increased food security.

SEC. 405.[97] CONSULTATION.

The Secretary and the Administrator shall cooperate and consult in the implementation of this Act.

SEC. 406.[98] USE OF COMMODITY CREDIT CORPORATION.

(a) IN GENERAL.—The Commodity Credit Corporation may[99] acquire and make available such agricultural commodities (that have been determined to be available under section 401(a)) as necessary to carry out agreements under this Act.

(b) INCLUDED EXPENSES.—With respect to commodities made available under titles II and III,[100] the Commodity Credit Corporation may pay—

(1) the cost of acquiring such commodities;

(2) the costs associated with packaging, enrichment, preservation, and fortification of such commodities;

(3) the processing, transportation, handling, and other incidental costs up to the time of the delivery of such commodities free on board vessels in United States ports;

(4)[101] the vessel freight charges from United States ports or designated Canadian transshipment ports, as determined by the Secretary, to designated ports of entry abroad;

(5) the costs associated with transporting such commodities from United States ports to designated points of entry abroad in the case—

(A) of landlocked countries;

(B) of ports that cannot be used effectively because of natural or other disturbances;

(C) of the unavailability of carriers to a specific country; or

(D) of substantial savings in costs or time[102] that may be effected by the utilization of points of entry other than ports;

(6) in the case of commodities for urgent and extraordinary relief requirements (including pre-positioned commodities) the transportation costs incurred in moving the commodities from designated points of entry or ports of entry abroad to storage and distribution sites and associated storage and distribution costs; and

(7) the charges for general average contributions arising out of the ocean transport of commodities transferred pursuant thereto.

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[97] 7 U.S.C. 1735.

[98] 7 U.S.C. 1736.

[99] Sec. 215(1) of Public Law 104–127 (110 Stat. 956) struck out "shall" and inserted in lieu thereof "may".

[100] Sec. 215(2)(A) of Public Law 104–127 (110 Stat. 956) struck out "this Act" and inserted in lieu thereof "titles II and III".

[101] Sec. 215(2)(B) of Public Law 104–127 (110 Stat. 956) struck out and restated para. (4). It formerly read as follows:

"(4) the ocean freight charges from United States ports to designated ports of entry abroad;".

[102] Sec. 323 of Public Law 102–237 (105 Stat. 1857) struck out "items" and inserted in lieu thereof "time".

(c) COMMODITY CREDIT CORPORATION.—The funds, facilities, and authorities of the Commodity Credit Corporation may be used to carry out this Act.

SEC. 407.[103, 104] **ADMINISTRATIVE PROVISIONS.**

(a) TITLE I PROGRAMS.—

(1) ACQUISITIONS.—The importing country or private entity that enters into an agreement under title I[105] shall acquire the agricultural commodities to be financed under title I.

(2) INVITATION FOR BID.—No purchase of agricultural commodities from private stock or purchase of ocean transportation shall be financed under title I unless such purchases are made on the basis of an invitation for bid that is publicly advertised in the United States, and on the basis of bid offerings that shall conform to such invitation and be received and publicly opened in the United States. All awards in the purchase of commodities or ocean transportation financed under title I shall be considered with open, competitive, and responsive bid procedures, as determined appropriate by the Secretary. Resulting contracts may contain such terms and conditions as the Secretary determines are necessary and appropriate.[106]

(b)[104] AGENTS.—

(1) AUTHORITY OF THE SECRETARY OR COMMODITY CREDIT CORPORATION.—

(A) GENERAL RULE.—Except as provided in subparagraph (B), if it is determined appropriate, the Secretary or the Commodity Credit Corporation may serve as the purchasing or shipping agent, or both, for the importer or[107] importing country in arranging the purchase or shipping of commodities financed under title I.[108]

(B) EXCEPTION.—Notwithstanding subparagraph (A), the Secretary or the Commodity Credit Corporation may award, under a competitive bidding process, contracts for establishing freight agents who shall act on behalf of the Secretary or the Corporation to handle the shipping of commodities financed under this Act.

(C) AVOIDANCE OF CONFLICT OF INTEREST OF CONTRACTORS.—Freight agents employed by the Secretary or the Commodity Credit Corporation under title I shall not rep-

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[103] 7 U.S.C. 1736a.

[104] Sec. 1011(e) of Public Law 104–66 (109 Stat. 709) struck out subsec. (b) of this section, which had required that fees paid to agents of an importing country by suppliers otherwise financed by the Commodity Credit Corporation under title I shall be reported to the Secretary by the suppliers. The amendment also redesignated subsecs. (c) through (h) as subsecs. (b) through (g). Subsec. (g) was struck out by sec. 216(5) of Public Law 104–127 (110 Stat. 957). The amendment was made to subsec. (h), but is probably intended for subsec. (g) as redesignated by Public Law 104–66, and is incorporated as such an amendment. Subsec. (g) had required that the President report annually to Congress on progress toward food security in each country receiving U.S. Government food assistance.

[105] Sec. 216(1)(A) of Public Law 104–127 (110 Stat. 957) inserted "or private entity that enters into an agreement under title I" after "importing country".

[106] Sec. 216(A)(2) of Public Law 104–127 (110 Stat. 957) added the last sentence.

[107] Sec. 216(2)(A) of Public Law 104–127 (110 Stat. 957) inserted "importer or" before "importing country". The amendment was made to subsec. (c), but is probably intended for subsec. (b) as redesignated by Public Law 104–66, and is incorporated as such an amendment.

[108] Sec. 324 of Public Law 102–237 (105 Stat. 1857) struck out "this section" and inserted in lieu thereof "title I".

resent any[109] foreign government during the period of their contract with the United States Government.

(2) REASONABLE FEES AND COMMISSIONS.—

(A) FEES.—Notwithstanding any other provision of law, the Secretary or the Commodity Credit Corporation may enter into an agreement with the importer or[110] importing country that contains the terms and conditions that will govern the provision of purchasing or shipping agent services by the Secretary or the Corporation, including the establishment of fees for such services. Any such fees shall be fair and reasonable in relation to the services performed and shall be available as reimbursement for costs incurred in providing such services.

(B) PROHIBITION ON COMMISSIONS.—Commissions, fees, or other payments to any selling agent or to any agent of a purchaser shall be prohibited in the purchase of agricultural commodities that are financed under title I of[111] this Act.

(3) LIMITATIONS.—No commission, fees, or other payments to an agent, broker, consultant, or other representative of the importer or importing country for ocean transportation brokerage services in connection with the carriage of commodities provided under title I of[111] this Act may—

(A) be paid in excess of an amount determined appropriate by the Secretary; and

(B) be shared by such person with the importer or importing country or any agent thereof.

(4) AVOIDANCE OF CONFLICT OF INTEREST.—A person may not be an agent, broker, consultant, or other representative of the United States Government, an importer, or an importing country in connection with agricultural commodities provided under this Act during a fiscal year in which such person provides or[112] acts as an agent, broker, consultant, or other representative of a person[113] engaged in providing ocean transportation-related services for such commodities. For the purpose of this paragraph, the term "transportation-related services" means lightening, stevedoring, bagging, or inland transportation to the destination point.

(c)[104, 114] TITLE II AND III PROGRAM.—

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[109] Sec. 325 of Public Law 102–237 (105 Stat. 1857) struck out "other".

[110] Sec. 216(2)(A) of Public Law 104–127 (110 Stat. 957) inserted "importer or" before "importing country". The amendment was made to subsec. (c), but is probably intended for subsec. (b) as redesignated by Public Law 104–66, and is incorporated as such an amendment.

[111] Sec. 319 of Public Law 102–237 (105 Stat. 1857) inserted "title I of" before "this Act" in sec. 407(c)(2)(B) and (c)(3).

[112] Sec. 328(a)(1) of Public Law 102–237 (105 Stat. 1828) inserted "provides or" after "in which such person".

[113] Sec. 328(a)(2) of Public Law 102–237 (105 Stat. 1828) struck out "if the person is" and inserted in lieu thereof "of a person".

[114] Sec. 216(3)(B) of Public Law 104–127 (110 Stat. 957) struck out para. (4) to this section. The amendment was made to subsec. (d), but is probably intended for subsec. (c) as redesignated by Public Law 104–66, and is incorporated as such an amendment. Former para. (4) read as follows:

"(4) OCEAN TRANSPORTATION SERVICES.—Notwithstanding any provision of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) or other similar provisions relating to the making or performance of Federal Government contracts, the Administrator may procure ocean transportation services under this Act under such full and open competitive procedures as the Administrator determines are necessary and appropriate.".

(1) ACQUISITION.—(A) IN GENERAL.—The Administrator[115] shall transfer, arrange for the transportation, and take other steps necessary to make available agricultural commodities to be provided under title II and title III.

(B)[116] CERTAIN COMMODITIES MADE AVAILABLE FOR NONEMERGENCY ASSISTANCE.—In the case of agricultural commodities made available for nonemergency assistance under title II for least developed countries that meet the poverty and other eligibility criteria established by the International Bank for Reconstruction and Development for financing under the International Development Association, the Administrator may pay the transportation costs incurred in moving the agricultural commodities from designated points of entry or ports of entry abroad to storage and distribution sites and associated storage and distribution costs.

(2)[117] FREIGHT PROCUREMENT.—Notwithstanding the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) or other similar provisions of law relating to the making or performance of Federal Government contracts, ocean transportation under titles II and III may be procured on the basis of full and open competitive procedures. Resulting contracts may contain such terms and conditions as the Administrator determines are necessary and appropriate.

(3) AVOIDANCE OF CONFLICT OF INTEREST.—Freight agents employed by the Agency for International Development under titles II and III shall not represent any[118] foreign government during the period of their contract with the United States Government.

(4)[119] PREPOSITIONING.—Funds made available for fiscal years 2001 through 2007[120] to carry out titles II and III may be used by the Administrator to procure, transport, and store agricultural commodities for prepositioning within the United States and in foreign countries, except that for each such fiscal year not more than $2,000,000 of such funds may be used to store agricultural commodities for prepositioning in foreign countries.

(d)[104] TIMING OF SHIPMENTS.—In determining the timing of the shipment of agricultural commodities to be provided under this Act, the Secretary or the Administrator, as appropriate, shall consider—

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[115] Sec. 3011(1) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 284) struck out "The Administrator" and inserted in lieu thereof "(A) IN GENERAL.—The Administrator".

[116] Sec. 3011(2) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 284) added subpara. (B).

[117] Sec. 216(3)(A) of Public Law 104–127 (110 Stat. 957) struck out and restated para. (2). The amendment was made to subsec. (d), but is probably intended for subsec. (c) as redesignated by Public Law 104–66, and is incorporated as such an amendment. Former para. (2) read as follows:

"(2) FULL AND OPEN COMPETITION.—No purchase of agricultural commodities from private stocks or purchase of ocean transportation services by the United States Government shall be financed under titles II and III unless such purchases are made on the basis of full and open competition utilizing such procedures as are determined necessary and appropriate by the Administrator.".

[118] Sec. 328(b) of Public Law 102–237 (105 Stat. 1858) struck out "other".

[119] Sec. 310(b) of the Grain Standards and Warehouse Improvement Act of 2000 (Public Law 106–472; 114 Stat. 2076) added para. (4).

[120] Sec. 3010 of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 284) struck out "and 2002" and inserted in lieu thereof "through 2007".

(1) the time of harvest of any competing commodities in the recipient country; and

(2) such other concerns determined to be appropriate.

(e)[104] DEADLINE FOR AGREEMENTS UNDER TITLES I AND III.—An agreement under titles I and III shall, to the extent practicable, be entered into not later than—

(1) November 30 of the first fiscal year in which agricultural commodities are to be shipped under the agreement; or

(2) 60 days after the date of enactment of the annual Rural Development, Agriculture, and Related Agencies Appropriations Act for the first fiscal year in which agricultural commodities are to be shipped under the agreement,

whichever is later.

(f)[104] ANNUAL REPORTS.—

(1) IN GENERAL.—The President shall prepare an annual report concerning the programs and activities implemented under this Act for the preceding fiscal year.

(2) CONTENTS.—Each report shall include—

(A) the countries and organizations receiving food and other assistance provided to each country and organization under this Act;

(B) a general description of the projects or activities implemented under this Act, including local currency funded activities;[121]

(C) a statement of the amount of agricultural commodities made available to each country pursuant to section 416(b) of the Agricultural Act of 1949 and the Food for Progress Act of 1985; and[121]

(D)[121] an assessment of the progress towards achieving food security in each country receiving food assistance from the United States Government, with special emphasis on the nutritional status of the poorest populations in each country.

(3) SUBMISSION.—The President shall submit such report not later than January 15 of each year to the Committee on Agriculture and the Committee on Foreign Affairs[122] of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

SEC. 408.[123] EXPIRATION DATE.

No agreements to finance sales or to provide other assistance under this Act shall be entered into after December 31, 2007.[124]

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[121] Sec. 216(4) of Public Law 104–127 (110 Stat. 957) struck out "; and" at the end of subpara. (B); struck out a period and inserted "; and" at the end of subpara. (C); and added a new subpara. (D). The amendment was made to subsec. (g), but is probably intended for subsec. (f) as redesignated by Public Law 104–66, and is incorporated as such an amendment.

[122] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

[123] 7 U.S.C. 1736b.

[124] Sec. 3012 of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 284) struck out "2002" and inserted in lieu thereof "2007". Previously, sec. 217 of Public Law 104–127 (110 Stat. 957) struck out "1995" and inserted in lieu thereof "2002".

[125] Formerly at 7 U.S.C. 1736c. Sec. 218 of Public Law 104–127 (110 Stat. 957) repealed sec. 409, which had provided that "Not later than 180 days after November 28, 1990, regulations shall be issued to implement the provisions of this Act.".

SEC. 409.[125] * * * [Repealed—1996]

SEC. 410.[126] * * * [Repealed—1996]

SEC. 411.[127] **DEBT FORGIVENESS.**

(a) AUTHORITY.—The President, taking into account the financial resources of a country, may waive payments of principal and interest that such country would otherwise be required to make to the Commodity Credit Corporation under dollar sales agreements under title I [128] if—

(1) that country is a least developed country; and

(2) either—

(A) an International Monetary Fund standby agreement is in effect with respect to that country;

(B) a structural adjustment program of the International Bank for Reconstruction and Development or of the International Development Association is in effect with respect to that country;

(C) a structural adjustment facility, enhanced structural adjustment facility, or similar supervised arrangement with the International Monetary Fund is in effect with respect to that country; or

(D) even though such an agreement, program, facility, or arrangement is not in effect, the country is pursuing national economic policy reforms that would promote democratic, market-oriented, and long term economic development.

(b) REQUEST FOR DEBT RELIEF BY PRESIDENT.—The President may provide debt relief under subsection (a) only if a notification is submitted to Congress at least 10 days prior to providing the debt relief.[129] Such a notification shall—

(1) specify the amount of official debt the President proposes to liquidate; and

(2) identify the countries for which debt relief is proposed and the basis for their eligibility for such relief.

(c) APPROPRIATIONS ACTION REQUIRED.—The aggregate amount of principal and interest waived under this section may not exceed the amount approved for such purpose in an Act appropriating funds to carry out this Act.

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[126] Formerly at 7 U.S.C. 1736d. Sec. 219 of Public Law 104–127 (110 Stat. 957) repealed sec. 410, which had required that a number of programs under this Act be independently evaluated and reported on by the U.S. Comptroller General.

[127] 7 U.S.C. 1736e. Title II, chapter VIII of Public Law 102–27 (105 Stat. 147; 7 U.S.C. 1736e note) provided the following:

"Title I of Public Law 480 program allowed for the repayment of loans for the sale of agricultural commodities in foreign or local currencies until December 31, 1971. Since that time, until the law was changed in the 1985 farm bill, all sales have been on dollar credit terms. In view of the present financial situation, it is impossible for many countries to repay their loans in dollars. Therefore, the President may use the authority in section 411 and section 604 of the Agricultural Trade Development and Assistance Act of 1954 to renegotiate the payment on Public Law 480 debt in eligible countries in Latin America, the Caribbean and sub-Saharan Africa.".

Sec. 4(d) of Executive Order No. 12752 of February 25, 1991 (56 F.R. 8255; February 27, 1991) (redesignated as sec. 4(b) by Executive Order 13044 of April 18, 1997), delegated to the Secretary of Agriculture, in consultation with the Food Assistance Policy Council and the Department of the Treasury, the functions conferred on the President in sec. 411.

[128] Sec. 326 of Public Law 102–237 (105 Stat. 1857) struck out "this title" and inserted in lieu thereof "title I".

[129] Sec. 336 of Public Law 102–237 (105 Stat. 1859) inserted "at least 10 days prior to providing the debt relief".

(d) LIMITATION ON NEW CREDIT ASSISTANCE.—If the authority of this section is used to waive payments otherwise required to be made by a country pursuant to this Act, the President may not provide any new credit assistance for that country under this Act during the 2-year period beginning on the date such waiver authority is exercised, unless the President provides to the Congress, before the assistance is provided, a written justification for the provision of such new credit assistance.

(e) APPLICABILITY.—The authority of this section applies with respect to credit sales agreements entered into before November 28, 1990.[130]

SEC. 412.[131] AUTHORIZATION OF APPROPRIATIONS.

(a) REIMBURSEMENT.—There are authorized to be appropriated such sums as may be necessary to carry out—

(1) the concessional credit sales program established under title I;

(2) the emergency and private assistance program under title II; and

(3) the grant program established under title III,

including such amounts as may be required to make payments to the Commodity Credit Corporation to the extent the Commodity Credit Corporation is not reimbursed under the programs under this Act for the actual costs incurred or to be incurred by such Corporation in carrying out such programs.

(b)[132] TRANSFER OF FUNDS.—

(1) IN GENERAL.—Except as provided in paragraph (2) and notwithstanding any other provision of law, the President may direct that up to 15 percent of the funds available for any fiscal year for carrying out any title of this Act be used to carry out any other title of this Act.

(2) TITLE III FUNDS.—The President may direct that up to 50 percent of the funds available for any fiscal year for carrying out title III be used to carry out title II.

(c)[132] BUDGET.—In presenting the Budget of the United States, the President shall classify expenditures under this Act as expenditures for international affairs and finance rather than for agriculture and agricultural resources.

(d)[132] VALUE OF COMMODITIES.—Notwithstanding any other provision of law, in determining the reimbursement due the Commodity Credit Corporation for all expenses incurred under this Act, commodities from the inventory of the Commodity Credit Corporation that were acquired under dairy price support operations[133] shall be valued at a price not greater than the export market price for such commodities, as determined by the Secretary, as of the time such commodity is made available under this Act.

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[130] Sec. 322 of Public Law 102–237 (105 Stat. 1857) struck out "the date of enactment of this Act" and inserted in lieu thereof "November 28, 1990".

[131] 7 U.S.C. 1736f.

[132] Sec. 220 of Public Law 104–127 (110 Stat. 958) struck out subsecs. (b) and (c), relating to amount limitations and transfer of funds, inserted a new subsec. (b), and redesignated subsecs. (d) and (e) as subsecs. (c) and (d), respectively.

[133] Sec. 768 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106–387; 114 Stat. 1549A–45), struck out "title I of the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.)" and inserted in lieu thereof "dairy price support operations".

SEC. 413.[134] COORDINATION OF FOREIGN ASSISTANCE PROGRAMS.

To the maximum extent practicable, assistance for a foreign country under title III[135] shall be coordinated and integrated with United States development assistance objectives and programs for that country and with the overall development strategy of that country. Special emphasis should be placed on, and funds devoted to, activities that will increase the nutritional impact of programs of assistance under title III,[135] and child survival programs and projects, in least developed countries by improving the design and implementation of such programs and projects.

SEC. 414.[136] ASSISTANCE IN FURTHERANCE OF NARCOTICS CONTROL OBJECTIVES OF THE UNITED STATES.

(a) SUBSTANTIAL INJURY.—Local currencies that are made available for use under this Act may not be used to finance the production for export of agricultural commodities (or products thereof) that would compete in the world market with similar agricultural commodities (or products thereof) produced in the United States, if such competition would cause substantial injury to the United States producers, as determined by the President.

(b) EXCEPTION FOR NARCOTICS CONTROL.—Notwithstanding subsection (a), the President may provide assistance under this Act, including assistance through the use of local currencies generated by the sale of commodities under such Act, for economic development activities undertaken in an eligible country that is a major illicit drug producing country (as defined in section 481(e)(2)[137] of the Foreign Assistance Act of 1961), for the purpose of reducing the dependence of the economy of such country on the production of crops from which narcotic and psychotropic drugs are derived.

SEC. 415.[138] MICRONUTRIENT FORTIFICATION PROGRAMS.

(a) IN GENERAL.—

(1)[139] PROGRAMS.—Not later than September 30, 2003, the Administrator, in consultation with the Secretary, shall establish micronutrient fortification programs.

(2)[140] PURPOSE.—The purpose of a program shall be to—

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[134] 7 U.S.C. 1736g.

[135] Sec. 221 of Public Law 104–127 (110 Stat. 958) struck out "this Act" and inserted in lieu thereof "title III".

[136] 7 U.S.C. 1736g–1.

[137] Formerly read "section 481(i)(2)". Sec. 6(a) of the International Narcotics Control Act of 1992 (Public Law 102–583; 106 Stat. 4932) provided that "Any reference in any provision of law enacted before the date of enactment of this Act to section 481(e) or 481(i) of that Act shall be deemed to be a reference to section 489 or section 481(e)".

[138] 7 U.S.C. 1736g–2. Added by sec. 222 of Public Law 104–127 (110 Stat. 958). Section catchline was amended by sec. 3013(1) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 284), which struck out "**PILOT PROGRAM**" and inserted in lieu thereof "**PROGRAMS**".

[139] Sec. 3013(2)(B) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 284) struck out "Subject to the availability of practical technology and to cost effectiveness, not later than September 30, 1997, the Secretary, in consultation with the Administrator, shall establish a micronutrient fortification pilot program under this Act." and inserted in lieu thereof "(1) PROGRAMS.—Not later than September 30, 2003, the Administrator, in consultation with the Secretary, shall establish micronutrient fortification programs.".

[140] Sec. 3013(2)(C) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 284) struck out "The purpose of the program" and inserted in lieu thereof "(2) PURPOSE.—The purpose of a program".

(A)[141] assist developing countries in correcting micronutrient dietary deficiencies among segments of the populations of the countries;[142]

(B)[141] encourage the development of technologies for the fortification of[143] grains and other commodities that are readily transferable to developing countries; and[144]

(C)[144] assess and apply technologies and systems to improve and ensure the quality, shelf life, bioavailability, and safety of fortified food aid commodities, and products of those commodities, that are provided to developing countries, by using the same mechanism that was used to assess the micronutrient fortification program in the report entitled "Micronutrient Compliance Review of Fortified P.L. 480 Commodities", published October 2001 with funds from the Bureau for Humanitarian Response of the United States Agency for International Development.

(b) SELECTION OF PARTICIPATING COUNTRIES.—From among the countries eligible for assistance under this Act, the Secretary may select not more than 5 developing countries to participate in a program under this section.[145]

(c) FORTIFICATION.—Under a program,[146] grains and other commodities made available to a developing country selected to participate in a program may[147] be fortified with 1 or more micronutrients (such as[148] vitamin A, iron, iodine, and folic acid)[149] with respect to which a substantial portion of the population in the country is deficient. The commodity may be fortified in the United States or in the developing country.

(d) TERMINATION OF AUTHORITY.—The authority to carry out programs[150] established under this section shall terminate on September 30, 2007.[151]

SEC. 416.[152] USE OF CERTAIN LOCAL CURRENCY.

Local currency payments received by the United States pursuant to agreements entered into under title I (as in effect on November

[141] Sec. 3013(2)(A) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 284) redesignated paras. (1) and (2) as subparas. (A) and (B), and adjusted indentation.

[142] Sec. 3013(2)(D)(i) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 284) struck out "and" at the end of subpara. (A).

[143] Sec. 3013(2)(D)(ii)(I) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 284) struck out "whole" before "grains".

[144] Sec. 3013(2)(D)(ii)(II) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 285) struck out a period at the end of subpara. (B), inserted in lieu thereof "; and", and sec. 3013(2)(D)(iii) of that Act added subpara. (C).

[145] Sec. 3013(3) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 285) struck out "the pilot program" and inserted in lieu thereof "a program under this section".

[146] Sec. 3013(4)(A) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 285) struck out "the pilot program, whole" and inserted in lieu thereof "a program,".

[147] Sec. 3013(4)(B) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 285) struck out "the pilot program may" and inserted in lieu thereof "a program may".

[148] Sec. 3013(4)(C) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 285) struck out "including" and inserted in lieu thereof "such as".

[149] Sec. 3013(4)(D) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 285) struck out "and iodine" and inserted in lieu thereof "iodine, and folic acid".

[150] Sec. 3013(5)(A) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 285) struck out "the pilot program" and inserted in lieu thereof "programs".

[151] Sec. 3013(5)(B) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 285) struck out "2002" and inserted in lieu thereof "2007".

[152] 7 U.S.C. 1736g–3. Added by sec. 223 of Public Law 104–127 (110 Stat. 958).

27, 1990) may be utilized by the Secretary in accordance with section 108 (as in effect on November 27, 1990).

TITLE V—FARMER-TO-FARMER PROGRAM

SEC. 501.[153] JOHN OGONOWSKI AND DOUG BEREUTER FARMER-TO-FARMER PROGRAM.

(a) DEFINITIONS.—In this section:

(1) CARIBBEAN BASIN COUNTRY.—The term "Caribbean Basin country" means a country eligible for designation as a beneficiary country under section 212 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702).

(2) EMERGING MARKET.—The term "emerging market" means a country that the Secretary determines—

(A) is taking steps toward a market-oriented economy through the food, agriculture, or rural business sectors of the economy of the country; and

(B) has the potential to provide a viable and significant market for United States agricultural commodities or products of United States agricultural commodities.

(3) MIDDLE INCOME COUNTRY.—The term "middle income country" means a country that has developed economically to the point at which the country does not receive bilateral development assistance from the United States.

(4) SUB-SAHARAN AFRICAN COUNTRY.—The term "sub-Saharan African country" has the meaning given the term in section 107 of the Trade and Development Act of 2000 (19 U.S.C. 3706).

(b) PROVISION.—Notwithstanding any other provision of law, to further assist developing countries, middle-income countries, emerging markets, sub-Saharan African countries, and Caribbean Basin countries to increase farm production and farmer incomes, the President may—

(1) establish and administer a program, to be known as the "John Ogonowski and Doug Bereuter[154] Farmer-to-Farmer Program", of farmer-to-farmer assistance between the United States and such countries to assist in—

(A) increasing food production and distribution; and

(B) improving the effectiveness of the farming and marketing operations of agricultural producers in those countries;

(2) use United States agricultural producers, agriculturalists, colleges and universities (including historically black colleges

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[153] 7 U.S.C. 1737. Sec. 3014 of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 285) amended and restated sec. 501. Previously, sec. 777 of Public Law 107–76 (115 Stat. 747) inserted "John Ogonowski" into the section catchline before "Farmer-to-Farmer Program", and added a new subsec. (d) to designate the Farmer-to-Farmer Program as the John Ogonowski Farmer-to-Farmer Program. Subsequently, sec. 769(2) of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2005 (division A of Public Law 109–447; 118 Stat. 2848) inserted "**AND DOUG BEREUTER**" after "**JOHN OGONOWSKI**".

Sec. 4(f) of Executive Order No. 12752 of February 25, 1991 (56 F.R. 8255; February 27, 1991) (redesignated as sec. 4(d) by Executive Order 13044 of April 18, 1997), delegated to the Administrator of the Agency for International Development the functions conferred on the President in title V.

[154] Sec. 769(1) of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2005 (division A of Public Law 109–447; 118 Stat. 2848) inserted "and Doug Bereuter" after "John Ogonowski".

and universities, land grant colleges or universities, and foundations maintained by colleges or universities), private agribusinesses, private organizations (including grassroots organizations with an established and demonstrated capacity to carry out such a bilateral exchange program), private corporations, and nonprofit farm organizations to work in conjunction with agricultural producers and farm organizations in those countries, on a voluntary basis—

(A) to improve agricultural and agribusiness operations and agricultural systems in those countries, including improving—

(i) animal care and health;
(ii) field crop cultivation;
(iii) fruit and vegetable growing;
(iv) livestock operations;
(v) food processing and packaging;
(vi) farm credit;
(vii) marketing;
(viii) inputs; and
(ix) agricultural extension; and

(B) to strengthen cooperatives and other agricultural groups in those countries;

(3) transfer the knowledge and expertise of United States agricultural producers and businesses, on an individual basis, to those countries while enhancing the democratic process by supporting private and public agriculturally related organizations that request and support technical assistance activities through cash and in-kind services;

(4) to the maximum extent practicable, make grants to or enter into contracts or other cooperative agreements with private voluntary organizations, cooperatives, land grant universities, private agribusiness, or nonprofit farm organizations to carry out this section (except that any such contract or other agreement may obligate the United States to make outlays only to the extent that the budget authority for such outlays is available under subsection (d) or has otherwise been provided in advance in appropriation Acts);

(5) coordinate programs established under this section with other foreign assistance programs and activities carried out by the United States; and

(6) to the extent that local currencies can be used to meet the costs of a program established under this section, augment funds of the United States that are available for such a program through the use, within the country in which the program is being conducted, of—

(A) foreign currencies that accrue from the sale of agricultural commodities and products under this Act; and

(B) local currencies generated from other types of foreign assistance activities.

(c) SPECIAL EMPHASIS ON SUB-SAHARAN AFRICAN AND CARIBBEAN BASIN COUNTRIES.—

(1) FINDINGS.—Congress finds that—

(A) agricultural producers in sub-Saharan African and Caribbean Basin countries need training in agricultural

techniques that are appropriate for the majority of eligible agricultural producers in those countries, including training in—

(i) standard growing practices;

(ii) insecticide and sanitation procedures; and

(iii) other agricultural methods that will produce increased yields of more nutritious and healthful crops;

(B) agricultural producers in the United States (including African-American agricultural producers) and banking and insurance professionals have agribusiness expertise that would be invaluable for agricultural producers in sub-Saharan African and Caribbean Basin countries;

(C) a commitment by the United States is appropriate to support the development of a comprehensive agricultural skills training program for those agricultural producers that focuses on—

(i) improving knowledge of insecticide and sanitation procedures to prevent crop destruction;

(ii) teaching modern agricultural techniques that would facilitate a continual analysis of crop production, including—

(I) the identification and development of standard growing practices; and

(II) the establishment of systems for recordkeeping;

(iii) the use and maintenance of agricultural equipment that is appropriate for the majority of eligible agricultural producers in sub-Saharan African or Caribbean Basin countries;

(iv) the expansion of small agricultural operations into agribusiness enterprises by increasing access to credit for agricultural producers through—

(I) the development and use of village banking systems; and

(II) the use of agricultural risk insurance pilot products; and

(v) marketing crop yields to prospective purchasers (including businesses and individuals) for local needs and export; and

(D) programs that promote the exchange of agricultural knowledge and expertise through the exchange of American and foreign agricultural producers have been effective in promoting improved agricultural techniques and food security and the extension of additional resources to such farmer-to-farmer exchanges is warranted.

(2) GOALS FOR PROGRAMS CARRIED OUT IN SUB-SAHARAN AFRICAN AND CARIBBEAN COUNTRIES.—The goals of programs carried out under this section in sub-Saharan African and Caribbean Basin countries shall be—

(A) to expand small agricultural operations in those countries into agribusiness enterprises by increasing access to credit for agricultural producers through—

(i) the development and use of village banking systems; and

(ii) the use of agricultural risk insurance pilot products;

(B) to provide training to agricultural producers in those countries that will—

(i) enhance local food security; and

(ii) help mitigate and alleviate hunger;

(C) to provide training to agricultural producers in those countries in groups to encourage participants to share and pass on to other agricultural producers in the home communities of the participants, the information and skills obtained from the training, rather than merely retaining the information and skills for the personal enrichment of the participants; and

(D) to maximize the number of beneficiaries of the programs in sub-Saharan African and Caribbean Basin countries.

(d) MINIMUM FUNDING.—Notwithstanding any other provision of law, in addition to any funds that may be specifically appropriated to carry out this section, not less than 0.5 percent of the amounts made available for each of fiscal years 2002 through 2007 to carry out this Act shall be used to carry out programs under this section, with—

(1) not less than 0.2 percent to be used for programs in developing countries; and

(2) not less than 0.1 percent to be used for programs in sub-Saharan African and Caribbean Basin countries.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out programs under this section in sub-Saharan African and Caribbean Basin countries $10,000,000 for each of fiscal years 2002 through 2007.

(2) ADMINISTRATIVE COSTS.—Not more than 5 percent of the funds made available for a fiscal year under paragraph (1) may be used to pay administrative costs incurred in carrying out programs in sub-Saharan African and Caribbean Basin countries.

TITLE VI—ENTERPRISE FOR THE AMERICAS INITIATIVE

SEC. 601.[155] ESTABLISHMENT OF THE FACILITY.

There is established in the Department of the Treasury an entity to be known as the "Enterprise for the Americas Facility" (hereafter referred to in this title as the "Facility").

SEC. 602.[156] PURPOSE.

The purpose of this title is to encourage and support improvement in the lives of the people of Latin America and the Caribbean through market-oriented reforms and economic growth with interrelated actions to promote debt reduction, investment reforms, and community-based conservation and sustainable use of the environment. The Facility will support such objectives through the administration of debt reduction operations relating to those countries

[155] 7 U.S.C. 1738.
[156] 7 U.S.C. 1738a.

that meet investment reform and other policy conditions provided for in this title.

SEC. 603.[157] ELIGIBILITY FOR BENEFITS UNDER THE FACILITY.

(a) REQUIREMENTS.—To be eligible for benefits from the Facility under this title, a country shall—

(1) be a Latin American or Caribbean country;

(2) have in effect or have received approval for, or, as appropriate in exceptional circumstances, be making significant progress towards the establishment of—

(A) an International Monetary Fund (hereafter referred to in this title as the "IMF") standby arrangement, extended IMF arrangement, or an arrangement under the structural adjustment facility or enhanced structural adjustment facility, or in exceptional circumstances, an IMF-monitored program or its equivalent; and

(B) as appropriate, structural or sectoral adjustment loans from the International Bank for Reconstruction and Development (hereafter referred to in this title as the "World Bank") or the International Development Association (hereafter referred to in this title as the "IDA");

(3) have placed into effect major investment reforms in conjunction with an Inter-American[158] Development Bank (hereafter referred to as the "IDB") loan or otherwise be implementing, or making significant progress towards an open investment regime; and

(4) if appropriate, have agreed with its commercial bank lenders on a satisfactory financing program, including, as appropriate, debt or debt service reduction.

(b) ELIGIBILITY DETERMINATION.—The President shall determine whether a country is an eligible country for purposes of subsection (a).

SEC. 604.[159] REDUCTION OF CERTAIN DEBT.

(a) AUTHORITY TO REDUCE DEBT.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the President may reduce the amount owed to the United States or any agency of the United States, and outstanding as of January 1, 1990, as a result of any credits extended under title I to a country eligible for benefits from the Facility.

(2) AVAILABILITY[160] OF APPROPRIATIONS.—The authorities under this section may be exercised only to the extent provided for in advance in appropriation Acts.

(b) LIMITATION.—A debt reduction authorized under subsection (a) shall be accomplished, at the direction of the Facility, through

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[157] 7 U.S.C. 1738b.

[158] Sec. 302 of Public Law 102–237 (105 Stat. 1855) added the hyphen to "Inter-American".

[159] 7 U.S.C. 1738c. Title II, chapter VIII of Public Law 102–27 (105 Stat. 147, 7 U.S.C. 1736e note) provided the following:

"Title I of Public Law 480 program allowed for the repayment of loans for the sale of agricultural commodities in foreign or local currencies until December 31, 1971. Since that time, until the law was changed in the 1985 farm bill, all sales have been on dollar credit terms. In view of the present financial situation, it is impossible for many countries to repay their loans in dollars. Therefore, the President may use the authority in section 411 and section 604 of the Agricultural Trade Development and Assistance Act of 1954 to renegotiate the payment on Public Law 480 debt in eligible countries in Latin America, the Caribbean and sub-Saharan Africa.".

[160] Sec. 303 of Public Law 102–237 (105 Stat. 1855) corrected the spelling of "Availability".

the exchange of a new obligation under this title for obligations of the type referred to in subsection (a) outstanding as of January 1, 1990.

(c) EXCHANGE OF OBLIGATIONS.—The Facility shall notify the Commodity Credit Corporation of an agreement entered into under subsection (b) with an eligible country to exchange a new obligation for outstanding obligations. At the direction of the Facility, the old obligations that are the subject of the agreement may be canceled and a new debt obligation may be established for the country relating to the agreement. The Commodity Credit Corporation shall make an adjustment in its accounts to reflect a debt reduction under this section.

SEC. 605.[161] REPAYMENT OF PRINCIPAL.

(a) CURRENCY OF PAYMENT.—The principal amount owed under each new obligation issued under section 604 shall be repaid in United States dollars.

(b) DEPOSIT OF PAYMENTS.—Principal repayments on new obligations issued under section 604 shall be deposited in Commodity Credit Corporation accounts.

SEC. 606.[162] INTEREST OF NEW OBLIGATIONS.

(a) RATE OF INTEREST.—New obligations issued to an eligible country under section 604 shall bear interest at a concessional rate.

(b) CURRENCY OF PAYMENT, DEPOSITS.—

(1) UNITED STATES DOLLARS.—An eligible country to which a new obligation has been issued under section 604 that has not entered into an agreement under section 607, shall be required to pay interest on such obligation in United States dollars which shall be deposited in Commodity Credit Corporation accounts.

(2) LOCAL CURRENCY.—If an eligible country to which a new obligation has been issued under section 604 has entered into an agreement under section 607, interest under such obligation may be paid in the local currency of the eligible country and deposited into an Environmental Fund as provided for in section 608. Such interest shall be the property of the eligible country until such time as it is disbursed under section 608. Such local currencies shall be used for the purposes specified in the agreement entered into under section 607.

(c) INTEREST PREVIOUSLY PAID.—If an eligible country to which a new obligation has been issued under section 604 enters into an agreement under section 607 subsequent to the date on which interest first becomes due on such new obligation, any interest paid on such new obligation prior to such agreement being entered into shall not be redeposited into the Fund established for the eligible country under section 608(a) but shall be deposited into Commodity Credit Corporation accounts.[163]

SEC. 607.[164] ENVIRONMENTAL FRAMEWORK AGREEMENTS.

(a) AUTHORITY.—The President is authorized to enter into an environmental framework agreement with each country eligible for

[161] 7 U.S.C. 1738d.
[162] 7 U.S.C. 1738e.
[163] Sec. 304 of Public Law 102–237 (105 Stat. 1855) inserted "accounts" after "Corporation".
[164] 7 U.S.C. 1738f.

benefits from the Facility concerning the operation and use of an Enterprise for the Americas Environmental Fund (hereafter referred to in this title as the "Environmental Fund")[165] established under section 608 for that country. The President shall consult with the Board established under section 610 when entering into such agreements.

(b) REQUIREMENTS.—An environmental framework agreement entered into under this section shall—

(1) require the eligible country to establish an Environmental Fund;

(2) require the eligible country to make interest payments under section 608(a) into the Environmental Fund;

(3) require the eligible country to make prompt disbursements from the Environmental Fund to the body described in subsection (c);

(4) where appropriate, seek to maintain the value of the local currency resources deposited into the appropriate Environmental Fund in terms of United States dollars;

(5) specify, in accordance with section 612, the purposes for which the Environmental Fund may be used; and

(6) contain reasonable provisions for the enforcement of the terms of the agreement.

(c) ADMINISTERING BODY.—Funds disbursed from the Environmental Fund in an eligible country shall be administered by a body constituted under the laws of the country. Such body shall—

(1) be composed of—

(A) one or more representatives appointed by the President;

(B) one or more representatives appointed by the eligible country; and

(C) representatives from a broad range of environmental and local community development nongovernmental organizations of the host country;

the majority of which shall be local representatives from nongovernmental organizations, and scientific or academic bodies;

(2) receive proposals for grant assistance from local organizations, and make grants to such organizations in accordance with the priorities agreed upon in the framework agreement and consistent with the overall purposes of section 612;

(3) be responsible for the management of the program and oversight of grant activities funded from resources of the Environmental Fund;

(4) be subject to fiscal audits by an independent auditor on an annual basis;

(5) present an annual program for review by the Board established under section 610 each year;

(6) present an annual report on the activities undertaken during the previous year to the Chairman of the Board established under section 610, and the government of the eligible country each year; and

[165] In a technical correction, sec. 305 of Public Law 102–237 (105 Stat. 1855) moved the close quotation mark.

(7) have any grant over $100,000 be subject to veto by the United States and the government of the eligible country.

SEC. 608.[166] ENTERPRISE FOR THE AMERICAS ENVIRONMENTAL FUNDS.

(a) ESTABLISHMENT.—An eligible country shall, under the terms of an environmental framework agreement entered into under section 607, establish an Environmental Fund to receive payments in local currency pursuant to section 607(b)(1).

(b) INVESTMENT.—Amounts deposited into an Environmental Fund shall be invested until disbursed. Notwithstanding any other provision of law, any return on such investment may be retained by the Environmental Fund and need not be deposited to the account of the Commodity Credit Corporation and may be retained without further appropriation by Congress.

SEC. 609.[167] DISBURSEMENT OF ENVIRONMENTAL FUNDS.

Funds in an Environmental Fund shall be disbursed only pursuant to a framework agreement entered into pursuant to section 607.

SEC. 610.[168] ENTERPRISE [169] FOR THE AMERICAS BOARD.

(a) ESTABLISHMENT.—There is established a board to be known as the "Enterprise [169] for the Americas Board" (hereafter referred to in this title as the "Board").

(b) MEMBERSHIP AND CHAIRPERSON.—

(1) MEMBERSHIP.—The Board shall be composed of—

(A) six [170] representatives from the United States Government, at least one of whom shall be a representative of the Department of Agriculture; [170] and

(B) five [171] representatives from private nongovernmental environmental, child survival and child development,[172] community development, scientific, and academic organizations with experience and expertise in Latin America and the Caribbean, at least one of whom shall be a representative from a child survival and child development organization; [173]

to be appointed by the President.

(2) CHAIRPERSON.—The Board shall be headed by a chairperson who shall be appointed by the President from among the representatives appointed under paragraph (1)(A).

(c) RESPONSIBILITIES.—The Board shall—

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[166] 7 U.S.C. 1738g.

[167] 7 U.S.C. 1738h.

[168] 7 U.S.C. 1738i.

[169] Sec. 603 of the Jobs Through Exports Act of 1992 (Public Law 102–549; 106 Stat. 3669) struck out "**ENVIRONMENT**" and inserted in lieu thereof "**ENTERPRISE**" in the catchline; and struck out "Environment" and inserted in lieu thereof "Enterprise" in subsec. (a).

[170] Sec. 339(1) of Public Law 102–237 (105 Stat. 1861) struck out "five" and inserted in lieu thereof "six", and added after "Government" the text ", at least one of whom shall be a representative of the Department of Agriculture".

[171] Sec. 339(2) of Public Law 102–237 (105 Stat. 1861) struck out "four" and inserted in lieu thereof "five".

[172] Sec. 603(3)(A) of the Jobs Through Exports Act of 1992 (Public Law 102–549; 106 Stat. 3669) inserted "child survival and child development," after "environmental,".

[173] Sec. 603(3)(B) of the Jobs Through Exports Act of 1992 (Public Law 102–549; 106 Stat. 3669) inserted ", at least one of whom shall be a representative from a child survival and child development organization" after "Caribbean".

(1) advise the President on the negotiations for the environmental framework agreements described in subsections (a) and (b) of section 607;

(2) ensure, in consultation with the government of the appropriate eligible country, with nongovernmental organizations of such eligible country, and if appropriate, of the region, and with environmental, scientific, and academic leaders of such eligible country and, as appropriate, of the region, that a suitable body referred to in section 607(c) is identified; and

(3) review the programs, operations, and fiscal audits of the bodies referred to in section 607(c).

SEC. 611.[174] OVERSIGHT.

The President may designate appropriate United States agencies to review the implementation of programs under this title and the fiscal audits relating to such programs. Such oversight shall not constitute active management of an Environmental Fund.

SEC. 612.[175] ELIGIBLE ACTIVITIES AND GRANTEES.

(a) ELIGIBLE ENTITIES.—Activities eligible to receive assistance through the framework agreements entered into under section 607, shall include—

(1) activities of the type described in the Global Environmental Protection Assistance Act of 1989 (22 U.S.C. 2281 et seq.);[176]

(2) agriculture-related activities, including those that provide for the biological prevention and control of animal and plant pests and diseases, to benefit the environment; and

(3) local community initiatives that promote conservation and sustainable use of the environment.

(b) REGULATION.—All activities of the type referred to in subsection (a) shall, where appropriate, include initiatives that link conservation of natural resources with local community development.

(c) SETTING OF PRIORITIES.—Appropriate activities and priorities relating to the use of an Environmental Fund shall be set by local nongovernmental organizations within the appropriate eligible country.

(d) GRANTS.—Grants may be made by the body referred to in section 607(c) from the Environmental Fund for environmental purposes to—

(1) host country nongovernmental environmental, conservation, development, educational, and indigenous peoples organizations;

(2) other appropriate local or regional entities; or

(3) in exceptional circumstances, the government of the eligible country.

(e) PRIORITY.—In providing assistance from an Environmental Fund, the body established under section 607(c) within the eligible country shall give priority to projects that are run by nongovern-

[174] 7 U.S.C. 1738j.

[175] 7 U.S.C. 1738k.

[176] Sec. 306 of Public Law 102–237 (105 Stat. 1856) corrected a typographical error here by striking "462), and—", and inserted in lieu thereof "2281 et seq.);".

mental organizations and other private entities, and that involve local communities in their planning and execution.

SEC. 613.[177] ENCOURAGING MULTILATERAL DEBT DONATIONS.

(a) ENCOURAGING DONATIONS FROM OFFICIAL CREDITORS.—The President should actively encourage other official creditors of an eligible country to provide debt reduction to such eligible country.

(b) ENCOURAGING DONATIONS FROM OTHER SOURCES.—The President shall make every effort to insure that programs established through Environmental Funds are able to receive donations from private and public entities, and private creditors of the eligible country.

SEC. 614.[178] ANNUAL REPORT TO CONGRESS.

(a) IN GENERAL.—Not later[179] than December 31 of each fiscal year, the President shall prepare and submit to the Speaker of the House of Representatives and the President Pro Tempore of the Senate an annual report concerning the operation of the Facility for the prior fiscal year. This report shall include—[180]

(1) a description of the activities undertaken by the Facility during the previous fiscal year;

(2) a description of any Enviromental[181] Framework Agreement entered into under this title;

(3) a report on what Environmental Funds have been established under this title and on the operations of such Funds; and

(4) a description of any grants that have been extended by administering bodies pursuant to an Enviromental[181] Framework Agreement under this title.

(b) SUPPLEMENTAL VIEWS IN ANNUAL REPORT.—No later than December 15 of each fiscal year, each member of the Board shall be entitled to receive a copy of the report required under subsection (a). Each member of the Board may prepare and submit supplemental views to the President on the implementation of this title by December 31 for inclusion in the annual report when it is transmitted to Congress pursuant to this section.

SEC. 615.[182] CONSULTATIONS WITH CONGRESS.

The President shall consult with the appropriate congressional committees on a periodic basis to review the operation of the Facility under this title and the eligibility of countries for benefits from the Facility under this title.

SEC. 616.[183] SALE OF QUALIFIED DEBT TO ELIGIBLE COUNTRIES.

(a) IN GENERAL.—

(1) AUTHORIZATION.—The President may sell to an eligible country up to 40 percent of such country's qualified debt, only

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[177] 7 U.S.C. 1738*l*.

[178] 7 U.S.C. 1738m.

[179] Sec. 330 of Public Law 102–237 (105 Stat. 1858) struck out "Not later" and inserted in lieu thereof "(a) IN GENERAL.—Not later", and added subsec. (b).

[180] Sec. 3 of the Enterprise for the Americas Initiative Act of 1992 (Public Law 102–532; 106 Stat. 3512) added from "This report shall include—" through para. (4) of subsec. (a).

[181] As enrolled. Should read "Environmental".

[182] 7 U.S.C. 1738n. Added by sec. 331 of Public Law 102–237 (105 Stat. 1858).

[183] 7 U.S.C. 1738o. Added by sec. 2 of the Enterprise for the Americas Initiative Act of 1992 (Public Law 102–532; 106 Stat. 3509).

if an amount of the local currency of such country (other than the price paid for the debt) equal to—

(A) not less than 40 percent of the price paid for such debt by such eligible country, or

(B) the difference between the price paid for such debt and the face value of such debt;

whichever is less, is used by such country through an Environmental Fund for eligible activities described in section 612.

(2) ENVIRONMENTAL FUNDS.—For purposes of this section, the term "Environmental Fund" means an Environmental Fund established under section 608. In the case of Mexico, such fund may be designated as the Good Neighbor Environmental Fund for the Border.

(3) ESTABLISHMENT AND OPERATION OF ENVIRONMENTAL FUNDS.—The President should advise eligible countries on the procedures required to establish and operate the Environmental Funds required to be established under paragraph (1).

(b) TERMS AND CONDITIONS.—The President shall establish the terms and conditions, including the amount to be paid by the eligible country, under which such country's qualified debt may be sold under this section.

(c) APPROPRIATIONS REQUIREMENT.—The authorities provided by this section may be exercised only in such amounts and to such extent as is provided in advance in appropriations Acts.

(d) CERTAIN PROHIBITIONS INAPPLICABLE.—A sale of debt under this section shall not be considered assistance for purposes of any provision of law limiting assistance to a country.

(e) IMPLEMENTATION BY THE FACILITY.—A sale of debt authorized under this section shall be accomplished at the direction of the Facility. The Facility shall direct the Commodity Credit Corporation to carry out such sale. The Commodity Credit Corporation shall make an adjustment in its accounts to reflect the sale.

(f) DEPOSIT OF PROCEEDS.—The proceeds from a sale of qualified debt under this section shall be deposited in the account or accounts established by the Commodity Credit Corporation for the repayment of such debt by the eligible country.

(g) DEBTOR CONSULTATION.—Before any sale of qualified debt may occur under this section, the President should consult with the eligible country's government concerning such sale. The topics addressed in the consultation shall include the amount of qualified debt involved in the transaction and the uses to which funds made available as a result of the sale shall be applied.

SEC. 617.[184] SALE, REDUCTION, OR CANCELLATION OF QUALIFIED DEBT TO FACILITATE CERTAIN DEBT SWAPS.

(a) AUTHORITY TO SELL, REDUCE, OR CANCEL QUALIFIED DEBT.—For the purpose of facilitating eligible debt swaps, the President, in accordance with this section—

(1) may sell to an eligible purchaser (as determined pursuant to subsection (c)(1)) any qualified debt of an eligible country; or

[184] 7 U.S.C. 1738p. Added by sec. 2 of the Enterprise for the Americas Initiative Act of 1992 (Public Law 102–532; 106 Stat. 3509).

(2) may reduce or cancel eligible debt of an eligible country upon receipt of payment from an eligible payor (as determined under subsection (c)(2)).

(b) TERMS AND CONDITIONS.—The President shall establish the terms and conditions under which qualified debt may be sold, reduced, or canceled pursuant to this section.

(c) ELIGIBLE PURCHASERS AND ELIGIBLE PAYORS.—

(1) SALES OF DEBT.—Qualified debt may be sold pursuant to subsection (a)(1) only to a purchaser who presents plans satisfactory to the President for using the debt for the purpose of engaging in eligible debt swaps.

(2) REDUCTION OR CANCELLATION OF DEBT.—Qualified debt may be reduced or cancelled pursuant to subsection (a)(2) only if the payor presents plans satisfactory to the President for using such reduction or cancellation for the purpose of facilitating eligible debt swaps.

(d) DEBTOR CONSULTATION AND RIGHT OF FIRST REFUSAL.—

(1) CONSULTATION.—Before selling, reducing, or canceling any qualified debt of an eligible country pursuant to this section, the President should consult with that country concerning, among other things, the amount of debt to be sold, reduced, or canceled and the uses of such debt for eligible debt swaps.

(2) RIGHT OF FIRST REFUSAL.—The qualified debt of an eligible country may be sold, reduced, or cancelled pursuant to this section only if that country has been offered the opportunity to purchase that debt pursuant to section 616 and has not accepted that offer.

(e) LIMITATION.—In the aggregate, not more than 40 percent of the qualified debt of an eligible country may be sold, reduced, or cancelled under this section or sold under section 616.

(f) ADMINISTRATION.—The Facility shall notify the Commodity Credit Corporation of purchasers and payors the President has determined to be eligible under subsection (c), and shall direct the corporation to carry out the sale, reduction, or cancellation of a qualified debt pursuant to this section. The Commodity Credit Corporation shall make an adjustment in its accounts to reflect such sale, reduction, or cancellation.

(g) APPROPRIATIONS REQUIREMENT.—The authorities provided by this section may be exercised only in such amounts and to such extent as is provided in advance in appropriations Acts.

(h) DEPOSIT OF PROCEEDS.—The proceeds from the sale, reduction, or cancellation of qualified debt pursuant to this section shall be deposited in the United States Government account or accounts established for the repayment of such debt.

(i) ELIGIBLE DEBT SWAPS.—As used in this section, the term "eligible debt swap" means a debt-for-development swap or debt-for-nature swap.

SEC. 618.[185] NOTIFICATION TO CONGRESSIONAL COMMITTEES.

(a) NOTICE OF NEGOTIATIONS.—The Secretary of State and the Secretary of the Treasury shall, in every feasible instance, notify

[185] 7 U.S.C. 1738q. Added by sec. 2 of the Enterprise for the Americas Initiative Act of 1992 (Public Law 102–532; 106 Stat. 3509).

the designated congressional committees not less than 15 days prior to any formal negotiation for debt relief under this title.

(b) TRANSMITTAL OF TEXT OF AGREEMENTS.—The Secretary of State shall transmit to the designated congressional committees a copy of the text of any agreement with any foreign government which would result in any debt relief under this title no less than 30 days prior to its entry into force, together with a detailed justification of the interest of the United States in the proposed debt relief.

(c) ANNUAL REPORT.—The Secretary of State or the Secretary of the Treasury, as appropriate, shall submit to the designated congressional committees not later than February 1 of each year a consolidated statement of the budgetary implications of all debt relief agreements entered into force under this title during the preceding fiscal year.

(d) DESIGNATED CONGRESSIONAL COMMITTEES.—As used in this section, the term "designated congressional committees" means the Committee on Agriculture and the Committee on Foreign Affairs [186] of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

SEC. 619.[187] DEFINITION OF QUALIFIED DEBT.

As used in sections 616, 617, and 618, the term "qualified debt" means any obligation, or portion of such obligation, of an eligible country to pay for purchases of United States agricultural commodities guaranteed by the Commodity Credit Corporation under export credit guarantee programs authorized pursuant to section 5(f) of the Commodity Credit Corporation Charter Act or section 4(b) of the Food for Peace Act of 1966—

(1) in which the Commodity Credit Corporation obtained a legal right or interest, as a result of assignment or subrogation, not later than September 1, 1992; and

(2) the payment of which obligation has been, not later than September 1, 1992, rescheduled in accordance with principles set forth in an Agreed Minute of the Paris Club.

Such term includes the obligation to pay any interest which was due or accrued not later than September 1, 1992, and unpaid as of the date of a debt sale pursuant to section 616 or a debt sale, reduction, or cancellation pursuant to section 617 (as the case may be).

NOTE.—Section 1(5) of Public Law 85–128 [S. 1314], 71 Stat. 345, 7 U.S.C. 1704a, approved August 13, 1957, makes the following provision for reporting to Congress:

[186] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

[187] 7 U.S.C. 1738r. Added by sec. 2 of the Enterprise for the Americas Initiative Act of 1992 (Public Law 102–532; 106 Stat. 3509).

"(5) Within sixty days after any agreement is entered into for the use of any foreign currencies, a full report thereon shall be made to the Senate and the House of Representatives of the United States and to the Committees on Agriculture and Appropriations thereof.".

NOTE.—Section 3 of Public Law 84–962 [S. 3903], 70 Stat. 988, 7 U.S.C. 1701 note, approved August 3, 1956, provides:

"Sales of fresh fruit and the products thereof under title I of the Act shall be exempt from the requirements of the cargo preference laws (Public Resolution 17, Seventy-third Congress (15 U.S.C. 616a) and section 901(b) of the Merchant Marine Act, 1936 (46 U.S.C. 1241 (b))).".

NOTE.—Section 709 of Public Law 89–321 [H.R. 9811] (Food and Agriculture Act of 1965), 79 Stat. 1212, 7 U.S.C. 1446a–1, approved November 3, 1965, provides:

"The Secretary of Agriculture is hereby authorized to use funds of the Commodity Credit Corporation to purchase sufficient supplies of dairy products at market prices to meet the requirements of any programs for the schools (other than fluid milk in the case of schools), domestic relief distribution, community action,[188] and such other programs as are authorized by law, when there are insufficient stocks of dairy products in the hands of Commodity Credit Corporation available for these purposes.".

NOTE.—Section 407 of the Agricultural Act of 1949, as amended, and found at 7 U.S.C. 1427, provides the minimum prices the Commodity Credit Corporation may sell farm commodities owned or controlled by it.

[188] The words "foreign distribution" which appeared at this point were struck out by sec. 3(B) of the Food for Peace Act of 1966, effective January 1, 1967. See also sec. 416 of the Agricultural Act of 1949 which provides for, among other things, the donation of dairy products through foreign governments and public and nonprofit private humanitarian organizations.

b. Farm Security and Rural Investment Act of 2002

Public Law 107–171 [H.R. 2646], 116 Stat. 134, approved May 13, 2002

AN ACT To provide for the continuation of agricultural programs through fiscal year 2007, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

NOTE.—Amendments enacted in Public Law 107–171 to other Acts relating to agriculture have been incorporated into those Acts.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a)[1] SHORT TITLE.—This Act may be cited as the "Farm Security and Rural Investment Act of 2002".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows: * * *

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TITLE III—TRADE

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Subtitle B—Agricultural Trade Act of 1978

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SEC. 3107.[2] MCGOVERN-DOLE INTERNATIONAL FOOD FOR EDUCATION AND CHILD NUTRITION PROGRAM.

(a) DEFINITION OF AGRICULTURAL COMMODITY.—In this section, the term "agricultural commodity" means an agricultural commodity, or a product of an agricultural commodity, that is produced in the United States.

(b) PROGRAM.—Subject to subsection (l), the President may establish a program, to be known as "McGovern-Dole International Food for Education and Child Nutrition Program", requiring the procurement of agricultural commodities and the provision of financial and technical assistance to carry out—

(1) preschool and school food for education programs in foreign countries to improve food security, reduce the incidence of hunger, and improve literacy and primary education, particularly with respect to girls; and

[1] 7 U.S.C. 7901 note.
[2] 7 U.S.C. 1736o–1.

(2) maternal, infant, and child nutrition programs for pregnant women, nursing mothers, infants, and children who are 5 years of age or younger.

(c) ELIGIBLE COMMODITIES AND COST ITEMS.—Notwithstanding any other provision of law—

(1) any agricultural commodity is eligible to be provided under this section;

(2) as necessary to achieve the purposes of this section, funds appropriated under this section may be used to pay—

(A)(i) the cost of acquiring agricultural commodities;

(ii) the costs associated with packaging, enrichment, preservation, and fortification of agricultural commodities;

(iii) the processing, transportation, handling, and other incidental costs up to the time of the delivery of agricultural commodities free on board vessels in United States ports;

(iv) the vessel freight charges from United States ports or designated Canadian transshipment ports, as determined by the Secretary, to designated ports of entry abroad;

(v) the costs associated with transporting agricultural commodities from United States ports to designated points of entry abroad in the case—

(I) of landlocked countries;

(II) of ports that cannot be used effectively because of natural or other disturbances;

(III) of the unavailability of carriers to a specific country; or

(IV) of substantial savings in costs or time that may be effected by the utilization of points of entry other than ports; and

(vi) the charges for general average contributions arising out of the ocean transport of agricultural commodities transferred pursuant thereto;

(B) all or any part of the internal transportation, storage, and handling costs incurred in moving the eligible commodity, if the President determines that—

(i) payment of the costs is appropriate; and

(ii) the recipient country is a low income, net food-importing country that—

(I) meets the poverty criteria established by the International Bank for Reconstruction and Development for Civil Works Preference; and

(II) has a national government that is committed to or is working toward, through a national action plan, the goals of the World Declaration on Education for All convened in 1990 in Jomtien, Thailand, and the followup Dakar Framework for Action of the World Education Forum, convened in 2000;

(C) the costs of activities conducted in the recipient countries by a nonprofit voluntary organization, cooperative, or intergovernmental agency or organization that

would enhance the effectiveness of the activities implemented by such entities under this section; and

(D) the costs of meeting the allowable administrative expenses of private voluntary organizations, cooperatives, or intergovernmental organizations that are implementing activities under this section.

(d) GENERAL AUTHORITIES.—The President shall designate 1 or more Federal agencies to—

(1) implement the program established under this section;

(2) ensure that the program established under this section is consistent with the foreign policy and development assistance objectives of the United States; and

(3) consider, in determining whether a country should receive assistance under this section, whether the government of the country is taking concrete steps to improve the preschool and school systems in the country.

(e) ELIGIBLE ENTITIES.—Assistance may be provided under this section to private voluntary organizations, cooperatives, intergovernmental organizations, governments of developing countries and their agencies, and other organizations.

(f) PROCEDURES.—

(1) IN GENERAL.—In carrying out subsection (b), the President shall ensure that procedures are established that—

(A) provide for the submission of proposals by eligible entities, each of which may include 1 or more recipient countries, for commodities and other assistance under this section;

(B) provide for eligible commodities and assistance on a multiyear basis;

(C) ensure that eligible entities demonstrate the organizational capacity and the ability to develop, implement, monitor, report on, and provide accountability for activities conducted under this section;

(D) provide for the expedited development, review, and approval of proposals submitted in accordance with this section;

(E) ensure monitoring and reporting by eligible entities on the use of commodities and other assistance provided under this section; and

(F) allow for the sale or barter of commodities by eligible entities to acquire funds to implement activities that improve the food security of women and children or otherwise enhance the effectiveness of programs and activities authorized under this section.

(2) PRIORITIES FOR PROGRAM FUNDING.—In carrying out paragraph (1) with respect to criteria for determining the use of commodities and other assistance provided for programs and activities authorized under this section, the implementing agency may consider the ability of eligible entities to—

(A) identify and assess the needs of beneficiaries, especially malnourished or undernourished mothers and their children who are 5 years of age or younger, and school-age children who are malnourished, undernourished, or do not regularly attend school;

(B)(i) in the case of preschool and school-age children, target low-income areas where children's enrollment and attendance in school is low or girls' enrollment and participation in preschool or school is low, and incorporate developmental objectives for improving literacy and primary education, particularly with respect to girls; and

(ii) in the case of programs to benefit mothers and children who are 5 years of age or younger, coordinate supplementary feeding and nutrition programs with existing or newly-established maternal, infant, and children programs that provide health-needs interventions, including maternal, prenatal, and postnatal and newborn care;

(C) involve indigenous institutions as well as local communities and governments in the development and implementation of the programs and activities to foster local capacity building and leadership; and

(D) carry out multiyear programs that foster local self-sufficiency and ensure the longevity of programs in the recipient country.

(g) USE OF FOOD AND NUTRITION SERVICE.—The Food and Nutrition Service of the Department of Agriculture may provide technical advice on the establishment of programs under subsection (b)(1) and on implementation of the programs in the field in recipient countries.

(h) MULTILATERAL INVOLVEMENT.—

(1) IN GENERAL.—The President is urged to engage existing international food aid coordinating mechanisms to ensure multilateral commitments to, and participation in, programs similar to programs supported under this section.

(2) REPORTS.—The President shall annually submit to the Committee on International Relations and the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the commitments and activities of governments, including the United States government, in the global effort to reduce child hunger and increase school attendance.

(i) PRIVATE SECTOR INVOLVEMENT.—The President is urged to encourage the support and active involvement of the private sector, foundations, and other individuals and organizations in programs assisted under this section.

(j) GRADUATION.—An agreement with an eligible organization under this section shall include provisions—

(1) to—

(A) sustain the benefits to the education, enrollment, and attendance of children in schools in the targeted communities when the provision of commodities and assistance to a recipient country under a program under this section terminates; and

(B) estimate the period of time required until the recipient country or eligible organization is able to provide sufficient assistance without additional assistance under this section; or

(2) to provide other long-term benefits to targeted populations of the recipient country.

(k) REQUIREMENT TO SAFEGUARD LOCAL PRODUCTION AND USUAL MARKETING.—The requirement of section 403(a) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1733(a)) applies with respect to the availability of commodities under this section.

(l) FUNDING.—

(1) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the President shall use $100,000,000 for fiscal year 2003 to carry out this section.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2004 through 2007.

(3) ADMINISTRATIVE EXPENSES.—Funds made available to carry out this section may be used to pay the administrative expenses of any Federal agency implementing or assisting in the implementation of this section.

Subtitle C—Miscellaneous

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SEC. 3204. BIOTECHNOLOGY AND AGRICULTURAL TRADE PROGRAM.

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SEC. 3206.[4] GLOBAL MARKET STRATEGY.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, and biennially thereafter, the Secretary of Agriculture shall consult with the Committee on Agriculture, and the Committee on International Relations, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the formulation and implementation of a global market strategy for the Department of Agriculture that, to the maximum extent practicable—

(1) identifies opportunities for the growth of agricultural exports to overseas markets;

(2) ensures that the resources, programs, and policies of the Department are coordinated with those of other agencies; and

(3) remove barriers to agricultural trade in overseas markets.

(b) REVIEW.—The consultations under subsection (a) shall include a review of—

(1) the strategic goals of the Department; and

(2) the progress of the Department in implementing the strategic goals through the global market strategy.

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SEC. 3209. SENSE OF CONGRESS CONCERNING FOREIGN ASSISTANCE PROGRAMS.

(a) FINDINGS.—Congress finds that—

(1) the international community faces a continuing epidemic of ethnic, sectarian, and criminal violence;

[3] Added sec. 1543A to the Food, Agriculture, Conservation, and Trade Act of 1990.
[4] 7 U.S.C. 5603a.

(2) poverty, hunger, political uncertainty, and social instability are the principal causes of violence and conflict around the world;

(3) broad-based, equitable economic growth and agriculture development facilitates political stability, food security, democracy, and the rule of law;

(4) democratic governments are more likely to advocate and observe international laws, protect civil and human rights, pursue free market economies, and avoid external conflicts;

(5) the United States Agency for International Development has provided critical democracy and governance assistance to a majority of the nations that successfully made the transition to democratic governments during the past 2 decades;

(6) 43 of the top 50 consumer nations of American agricultural products were once United States foreign aid recipients;

(7) in the past 50 years, infant child death rates in the developing world have been reduced by 50 percent, and health conditions around the world have improved more during this period than in any other period;

(8) the United States Agency for International Development child survival programs have significantly contributed to a 10 percent reduction in infant mortality rates worldwide in just the past 8 years;

(9) in providing assistance by the United States and other donors in better seeds and teaching more efficient agricultural techniques over the past 2 decades have helped make it possible to feed an additional 1,000,000,000 people in the world;

(10) despite this progress, approximately 1,200,000,000 people, one-quarter of the world's population, live on less that $1 per day, and approximately 3,000,000,000 people live on only $2 per day;

(11) 95 percent of new births occur in developing countries, including the world's poorest countries; and

(12) only ½ percent of the Federal budget is dedicated to international economic and humanitarian assistance.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) United States foreign assistance programs should play an increased role in the global fight against terrorism to complement the national security objectives of the United States;

(2) the United States should lead coordinated international efforts to provide increased financial assistance to countries with impoverished and disadvantaged populations that are the breeding grounds for terrorism; and

(3) the United States Agency for International Development and the Department of Agriculture should substantially increase humanitarian, economic development, and agricultural assistance to foster international peace and stability and the promotion of human rights.

SEC. 3210. SENSE OF THE SENATE CONCERNING AGRICULTURAL TRADE.

(a) AGRICULTURE TRADE NEGOTIATING OBJECTIVES.—It is the sense of the Senate that the principal negotiating objective of the United States with respect to agricultural trade in all multilateral, regional, and bilateral negotiations is to obtain competitive oppor-

tunities for the export of United States agricultural commodities in foreign markets substantially equivalent to the competitive opportunities afforded foreign exports in United States markets and to achieve fairer and more open conditions of agricultural trade in bulk and value-added commodities by—

(1) reducing or eliminating, by a date certain, tariffs or other charges that decrease market opportunities for the export of United States agricultural commodities, giving priority to United States agricultural commodities that are subject to significantly higher tariffs or subsidy regimes of major producing countries;

(2) immediately eliminating all export subsidies on agricultural commodities worldwide while maintaining bona fide food aid and preserving United States agricultural market development and export credit programs that allow the United States to compete with other foreign export promotion efforts;

(3) leveling the playing field for United States agricultural producers by disciplining domestic supports such that no other country can provide greater support, measured as a percentage of total agricultural production value, than the United States does while preserving existing green box category to support conservation activities, family farms, and rural communities;

(4) developing, strengthening, and clarifying rules and effective dispute settlement mechanisms to eliminate practices that unfairly decrease United States market access opportunities for United States agricultural commodities or distort agricultural markets to the detriment of the United States, including—

(A) unfair or trade-distorting activities of state trading enterprises and other administrative mechanisms, with emphasis on—

(i) requiring price transparency in the operation of state trading enterprises and such other mechanisms; and

(ii) ending discriminatory pricing practices for agricultural commodities that amount to de facto export subsidies so that the enterprises or other mechanisms do not (except in cases of bona fide food aid) sell agricultural commodities in foreign markets at prices below domestic market prices or prices below the full costs of acquiring and delivering agricultural commodities to the foreign markets;

(B) unjustified trade restrictions or commercial requirements affecting new agricultural technologies, including biotechnology;

(C) unjustified sanitary or phytosanitary restrictions, including restrictions that are not based on scientific principles, in contravention of the Agreement on the Application of Sanitary and Phytosanitary Measures (as described in section 101(d)(3) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(3)));

(D) other unjustified technical barriers to agricultural trade; and

(E) restrictive and nontransparent rules in the administration of tariff rate quotas;

(5) improving import relief mechanisms to recognize the unique characteristics of perishable agricultural commodities;

(6) taking into account whether a party to negotiations with respect to trading in an agricultural commodity has—

(A) failed to adhere to the provisions of an existing bilateral trade agreement with the United States;

(B) circumvented obligations under a multilateral trade agreement to which the United States is a signatory; or

(C) manipulated its currency value to the detriment of United States agricultural producers or exporters; and

(7) otherwise ensuring that countries that accede to the World Trade Organization—

(A) have made meaningful market liberalization commitments in agriculture; and

(B) make progress in fulfilling those commitments over time.

(b) PRIORITY FOR AGRICULTURE TRADE.—It is the sense of the Senate that—

(1) reaching a successful agreement on agriculture should be the top priority of United States negotiators in World Trade Organization talks; and

(2) if the primary export competitors of the United States fail to reduce their trade distorting domestic supports and eliminate export subsidies in accordance with the negotiating objectives expressed in this section, the United States should take steps to increase the leverage of United States negotiators and level the playing field for United States producers, within existing World Trade Organization commitments.

(c) CONSULTATION WITH CONGRESSIONAL COMMITTEES.—It is the sense of the Senate that—

(1) before the United States Trade Representative negotiates a trade agreement that would reduce tariffs on agricultural commodities or require a change in United States agricultural law, the United States Trade Representative should consult with the Committee on Agriculture and the Committee on Ways and Means of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance of the Senate;

(2) not less than 48 hours before initialing an agreement relating to agricultural trade negotiated under the auspices of the World Trade Organization, the United States Trade Representative should consult closely with the committees referred to in paragraph (1) regarding—

(A) the details of the agreement;

(B) the potential impact of the agreement on United States agricultural producers; and

(C) any changes in United States law necessary to implement the agreement; and

(3) any agreement or other understanding (whether verbal or in writing) that relates to agricultural trade that is not disclosed to Congress before legislation implementing a trade agreement is introduced in either the Senate or the House of

Representatives should not be considered to be part of the agreement approved by Congress and should have no force and effect under Unites[5] States law or in any dispute settlement body.

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TITLE IV—NUTRITION PROGRAMS

SEC. 4001. SHORT TITLE.

This title may be cited as the "Food Stamp Reauthorization Act of 2002".

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Subtitle D—Miscellaneous

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SEC. 4404.[6] HUNGER FELLOWSHIP PROGRAM.

(a) SHORT TITLE; FINDINGS.—

(1) SHORT TITLE.—This section may be cited as the "Congressional Hunger Fellows Act of 2002".

(2) FINDINGS.—The Congress finds as follows:

(A) There is a critical need for compassionate individuals who are committed to assisting people who suffer from hunger as well as a need for such individuals to initiate and administer solutions to the hunger problem.

(B) Bill Emerson, the distinguished late Representative from the 8th District of Missouri, demonstrated his commitment to solving the problem of hunger in a bipartisan manner, his commitment to public service, and his great affection for the institution and the ideals of the United States Congress.

(C) George T. (Mickey) Leland, the distinguished late Representative from the 18th District of Texas, demonstrated his compassion for those in need, his high regard for public service, and his lively exercise of political talents.

(D) The special concern that Mr. Emerson and Mr. Leland demonstrated during their lives for the hungry and poor was an inspiration for others to work toward the goals of equality and justice for all.

(E) These two outstanding leaders maintained a special bond of friendship regardless of political affiliation and worked together to encourage future leaders to recognize and provide service to others, and therefore it is especially appropriate to honor the memory of Mr. Emerson and Mr. Leland by creating a fellowship program to develop and train the future leaders of the United States to pursue careers in humanitarian service.

(b) ESTABLISHMENT.—There is established as an independent entity of the legislative branch of the United States Government the

[5] As enrolled. Should read "United".
[6] 2 U.S.C. 1161.

Congressional Hunger Fellows Program (hereinafter in this section referred to as the "Program").

(c) BOARD OF TRUSTEES.—

(1) IN GENERAL.—The Program shall be subject to the supervision and direction of a Board of Trustees.

(2) MEMBERS OF THE BOARD OF TRUSTEES.—

(A) APPOINTMENT.—The Board shall be composed of 6 voting members appointed under clause (i) and one nonvoting ex officio member designated in clause (ii) as follows:

(i) VOTING MEMBERS.—(I) The Speaker of the House of Representatives shall appoint two members.

(II) The minority leader of the House of Representatives shall appoint one member.

(III) The majority leader of the Senate shall appoint two members.

(IV) The minority leader of the Senate shall appoint one member.

(ii) NONVOTING MEMBER.—The Executive Director of the program shall serve as a nonvoting ex officio member of the Board.

(B) TERMS.—Members of the Board shall serve a term of 4 years.

(C) VACANCY.—

(i) AUTHORITY OF BOARD.—A vacancy in the membership of the Board does not affect the power of the remaining members to carry out this section.

(ii) APPOINTMENT OF SUCCESSORS.—A vacancy in the membership of the Board shall be filled in the same manner in which the original appointment was made.

(iii) INCOMPLETE TERM.—If a member of the Board does not serve the full term applicable to the member, the individual appointed to fill the resulting vacancy shall be appointed for the remainder of the term of the predecessor of the individual.

(D) CHAIRPERSON.—As the first order of business of the first meeting of the Board, the members shall elect a Chairperson.

(E) COMPENSATION.—

(i) IN GENERAL.—Subject to clause (ii), members of the Board may not receive compensation for service on the Board.

(ii) TRAVEL.—Members of the Board may be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the program.

(3) DUTIES.—

(A) BYLAWS.—

(i) ESTABLISHMENT.—The Board shall establish such bylaws and other regulations as may be appropriate to enable the Board to carry out this section, including the duties described in this paragraph.

(ii) CONTENTS.—Such bylaws and other regulations shall include provisions—

(I) for appropriate fiscal control, funds accountability, and operating principles;

(II) to prevent any conflict of interest, or the appearance of any conflict of interest, in the procurement and employment actions taken by the Board or by any officer or employee of the Board and in the selection and placement of individuals in the fellowships developed under the program;

(III) for the resolution of a tie vote of the members of the Board; and

(IV) for authorization of travel for members of the Board.

(iii) TRANSMITTAL TO CONGRESS.—Not later than 90 days after the date of the first meeting of the Board, the Chairperson of the Board shall transmit to the appropriate congressional committees a copy of such bylaws.

(B) BUDGET.—For each fiscal year the program is in operation, the Board shall determine a budget for the program for that fiscal year. All spending by the program shall be pursuant to such budget unless a change is approved by the Board.

(C) PROCESS FOR SELECTION AND PLACEMENT OF FELLOWS.—The Board shall review and approve the process established by the Executive Director for the selection and placement of individuals in the fellowships developed under the program.

(D) ALLOCATION OF FUNDS TO FELLOWSHIPS.—The Board of Trustees shall determine the priority of the programs to be carried out under this section and the amount of funds to be allocated for the Emerson and Leland fellowships.

(d) PURPOSES; AUTHORITY OF PROGRAM.—

(1) PURPOSES.—The purposes of the program are—

(A) to encourage future leaders of the United States to pursue careers in humanitarian service, to recognize the needs of people who are hungry and poor, and to provide assistance and compassion for those in need;

(B) to increase awareness of the importance of public service; and

(C) to provide training and development opportunities for such leaders through placement in programs operated by appropriate organizations or entities.

(2) AUTHORITY.—The program is authorized to develop such fellowships to carry out the purposes of this section, including the fellowships described in paragraph (3).

(3) FELLOWSHIPS.—

(A) IN GENERAL.—The program shall establish and carry out the Bill Emerson Hunger Fellowship and the Mickey Leland Hunger Fellowship.

(B) CURRICULUM.—

(i) IN GENERAL.—The fellowships established under subparagraph (A) shall provide experience and training to develop the skills and understanding necessary

to improve the humanitarian conditions and the lives of individuals who suffer from hunger, including—

(I) training in direct service to the hungry in conjunction with community-based organizations through a program of field placement; and

(II) experience in policy development through placement in a governmental entity or nonprofit organization.

(ii) FOCUS OF BILL EMERSON HUNGER FELLOWSHIP.—The Bill Emerson Hunger Fellowship shall address hunger and other humanitarian needs in the United States.

(iii) FOCUS OF MICKEY LELAND HUNGER FELLOWSHIP.—The Mickey Leland Hunger Fellowship shall address international hunger and other humanitarian needs.

(iv) WORKPLAN.—To carry out clause (i) and to assist in the evaluation of the fellowships under paragraph (4), the program shall, for each fellow, approve a work plan that identifies the target objectives for the fellow in the fellowship, including specific duties and responsibilities related to those objectives.

(C) PERIOD OF FELLOWSHIP.—

(i) EMERSON FELLOW.—A Bill Emerson Hunger Fellowship awarded under this paragraph shall be for no more than 1 year.

(ii) LELAND FELLOW.—A Mickey Leland Hunger Fellowship awarded under this paragraph shall be for no more than 2 years. Not less than 1 year of the fellowship shall be dedicated to fulfilling the requirement of subparagraph (B)(i)(I).

(D) SELECTION OF FELLOWS.—

(i) IN GENERAL.—A fellowship shall be awarded pursuant to a nationwide competition established by the program.

(ii) QUALIFICATION.—A successful applicant shall be an individual who has demonstrated—

(I) an intent to pursue a career in humanitarian service and outstanding potential for such a career;

(II) leadership potential or actual leadership experience;

(III) diverse life experience;

(IV) proficient writing and speaking skills;

(V) an ability to live in poor or diverse communities; and

(VI) such other attributes as determined to be appropriate by the Board.

(iii) AMOUNT OF AWARD.—

(I) IN GENERAL.—Each individual awarded a fellowship under this paragraph shall receive a living allowance and, subject to subclause (II), an end-of-service award as determined by the program.

(II) REQUIREMENT FOR SUCCESSFUL COMPLETION OF FELLOWSHIP.—Each individual awarded a fellowship under this paragraph shall be entitled to receive an end-of-service award at an appropriate rate for each month of satisfactory service as determined by the Executive Director.

(iv) RECOGNITION OF FELLOWSHIP AWARD.—

(I) EMERSON FELLOW.—An individual awarded a fellowship from the Bill Emerson Hunger Fellowship shall be known as an "Emerson Fellow".

(II) LELAND FELLOW.—An individual awarded a fellowship from the Mickey Leland Hunger Fellowship shall be known as a "Leland Fellow".

(4) EVALUATION.—The program shall conduct periodic evaluations of the Bill Emerson and Mickey Leland Hunger Fellowships. Such evaluations shall include the following:

(A) An assessment of the successful completion of the work plan of the fellow.

(B) An assessment of the impact of the fellowship on the fellows.

(C) An assessment of the accomplishment of the purposes of the program.

(D) An assessment of the impact of the fellow on the community.

(e) TRUST FUND.—

(1) ESTABLISHMENT.—There is established the Congressional Hunger Fellows Trust Fund (hereinafter in this section referred to as the "Fund") in the Treasury of the United States, consisting of amounts appropriated to the Fund under subsection (i), amounts credited to it under paragraph (3), and amounts received under subsection (g)(3)(A).

(2) INVESTMENT OF FUNDS.—The Secretary of the Treasury shall invest the full amount of the Fund. Each investment shall be made in an interest bearing obligation of the United States or an obligation guaranteed as to principal and interest by the United States that, as determined by the Secretary in consultation with the Board, has a maturity suitable for the Fund.

(3) RETURN ON INVESTMENT.—Except as provided in subsection (f)(2), the Secretary of the Treasury shall credit to the Fund the interest on, and the proceeds from the sale or redemption of, obligations held in the Fund.

(f) EXPENDITURES; AUDITS.—

(1) IN GENERAL.—The Secretary of the Treasury shall transfer to the program from the amounts described in subsection (e)(3) and subsection (g)(3)(A) such sums as the Board determines are necessary to enable the program to carry out the provisions of this section.

(2) LIMITATION.—The Secretary may not transfer to the program the amounts appropriated to the Fund under subsection (i).

(3) USE OF FUNDS.—Funds transferred to the program under paragraph (1) shall be used for the following purposes:

(A) STIPENDS FOR FELLOWS.—To provide for a living allowance for the fellows.

(B) TRAVEL OF FELLOWS.—To defray the costs of transportation of the fellows to the fellowship placement sites.

(C) INSURANCE.—To defray the costs of appropriate insurance of the fellows, the program, and the Board.

(D) TRAINING OF FELLOWS.—To defray the costs of preservice and midservice education and training of fellows.

(E) SUPPORT STAFF.—Staff described in subsection (g).

(F) AWARDS.—End-of-service awards under subsection (d)(3)(D)(iii)(II).

(G) ADDITIONAL APPROVED USES.—For such other purposes that the Board determines appropriate to carry out the program.

(4) AUDIT BY GAO.—

(A) IN GENERAL.—The Comptroller General of the United States shall conduct an annual audit of the accounts of the program.

(B) BOOKS.—The program shall make available to the Comptroller General all books, accounts, financial records (including records of salaries of the Executive Director and other personnel), reports, files, and all other papers, things, or property belonging to or in use by the program and necessary to facilitate such audit.

(C) REPORT TO CONGRESS.—The Comptroller General shall submit a copy of the results of each such audit to the appropriate congressional committees.

(g) STAFF; POWERS OF PROGRAM.—

(1) EXECUTIVE DIRECTOR.—

(A) IN GENERAL.—The Board shall appoint an Executive Director of the program who shall administer the program. The Executive Director shall carry out such other functions consistent with the provisions of this section as the Board shall prescribe.

(B) RESTRICTION.—The Executive Director may not serve as Chairperson of the Board.

(C) COMPENSATION.—The Executive Director shall be paid at a rate not to exceed the rate of basic pay payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.[7]

(2) STAFF.—

(A) IN GENERAL.—With the approval of a majority of the Board, the Executive Director may appoint and fix the pay of additional personnel as the Executive Director considers necessary and appropriate to carry out the functions of the provisions of this section.

(B) COMPENSATION.—An individual appointed under subparagraph (A) shall be paid at a rate not to exceed the rate of basic pay payable for level GS–15 of the General Schedule.

[7] The current rate of compensation at level V of the Executive Schedule is $131,400 per annum (Executive Order 13368; 70 F.R. 1147; December 30, 2004).

(3) POWERS.—In order to carry out the provisions of this section, the program may perform the following functions:

(A) GIFTS.—The program may solicit, accept, use, and dispose of gifts, bequests, or devises of services or property, both real and personal, for the purpose of aiding or facilitating the work of the program. Gifts, bequests, or devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Fund and shall be available for disbursement upon order of the Board.

(B) EXPERTS AND CONSULTANTS.—The program may procure temporary and intermittent services under section 3109 of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS–15 of the General Schedule.

(C) CONTRACT AUTHORITY.—The program may contract, with the approval of a majority of the members of the Board, with and compensate Government and private agencies or persons without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

(D) OTHER NECESSARY EXPENDITURES.—The program shall make such other expenditures which the program considers necessary to carry out the provisions of this section, but excluding project development.

(h) REPORT.—Not later than December 31 of each year, the Board shall submit to the appropriate congressional committees a report on the activities of the program carried out during the previous fiscal year, and shall include the following:

(1) An analysis of the evaluations conducted under subsection (d)(4) (relating to evaluations of the Emerson and Leland fellowships and accomplishment of the program purposes) during that fiscal year.

(2) A statement of the total amount of funds attributable to gifts received by the program in that fiscal year (as authorized under subsection (g)(3)(A)), and the total amount of such funds that were expended to carry out the program that fiscal year.

(i)[8] AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $18,000,000 to carry out the provisions of this section.

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[8] Sec. 723 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2005 (division A of Public Law 108–447; 118 Stat. 2809), provided the following:

"SEC. 723. In addition to amounts otherwise appropriated or made available by this Act, $2,500,000 is appropriated for the purpose of providing Bill Emerson and Mickey Leland Hunger Fellowships, through the Congressional Hunger Center.".

Sec. 1 of Public Law 108–58 (117 Stat. 859) provided the following:

"SECTION 1. TEMPORARY AUTHORITY FOR CONGRESSIONAL HUNGER CENTER TO AWARD BILL EMERSON AND MICKEY LELAND HUNGER FELLOWSHIPS.

"Notwithstanding the Congressional Hunger Fellows Act of 2002 (section 4404 of Public Law 107–171; 2 U.S.C. 1161), funds appropriated for fiscal years 2003 and 2004 for the purpose of providing the Bill Emerson and Mickey Leland Hunger Fellowships shall be made available to the Congressional Hunger Center for the purposes of awarding the fellowships, except that any such funds provided in excess of $3,000,000 in fiscal year 2003 or $3,000,000 in fiscal year 2004 shall be appropriated to the Congressional Hunger Fellows Trust Fund established by such Act.".

(j) DEFINITION.—In this section, the term "appropriate congressional committees" means—

(1) the Committee on Agriculture and the Committee on International Relations of the House of Representatives; and

(2) the Committee on Agriculture, Nutrition, and Forestry and the Committee on Foreign Relations of the Senate.

c. Federal Agriculture Improvement and Reform Act of 1996

Partial text of Public Law 104–127 [H.R. 2854], 110 Stat. 888, approved April 4, 1996

NOTE.—Amendments enacted in Public Law 104–127 to other Acts relating to agriculture have been incorporated into those Acts.

AN ACT To modify the operation of certain agricultural programs.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1.[1] SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Federal Agriculture Improvement and Reform Act of 1996".

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TITLE II—AGRICULTURAL TRADE

Subtitle A—Amendments to Agricultural Trade Development and Assistance Act of 1954 and Related Statutes

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Subtitle B—Amendments to Agricultural Trade Act of 1978

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Subtitle C—Miscellaneous Agricultural Trade Provisions

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SEC. 282. SENSE OF CONGRESS CONCERNING MULTILATERAL DISCIPLINES ON CREDIT GUARANTEES.

It is the sense of Congress that—

(1) in negotiations to establish multilateral disciplines on agricultural export credits and credit guarantees, the United States should not agree to any arrangement that is incompatible with the provisions of United States law that authorize agricultural export credits and credit guarantees;

(2) in the negotiations (which are held under the auspices of the Organization for Economic Cooperation and Development), the United States should not reach any agreement that fails to

[1] 7 U.S.C. 7201 note.

impose disciplines on the practices of foreign government trading entities such as the Australian Wheat Board, the Canadian Wheat Board, the New Zealand Dairy Board, and the Australian Dairy Board; and

(3) the disciplines should include greater openness in the operations of the entities as long as the entities are subsidized by the foreign government or have monopolies for exports of a commodity that are sanctioned by the foreign government.

SEC. 283. INTERNATIONAL COTTON ADVISORY COMMITTEE.

(a) IN GENERAL.—The President shall ensure that the Government of the United States participates as a full member of the International Cotton Advisory Committee.

(b) REPRESENTATION BY THE SECRETARY.—The Secretary of Agriculture shall represent the Government of the United States as a member of the International Cotton Advisory Committee and shall delegate the primary responsibility to represent the Government of the United States to appropriately qualified individuals.

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d. Enterprise for the Americas Initiative Act of 1992

Partial text of Public Law 102–532 [H.R. 4059], 106 Stat. 3509, approved October 27, 1992

NOTE.—Amendments to title VI of the Agricultural Trade Development and Assistance Act of 1954 enacted in Public Law 102–532 have been incorporated into that Act.

AN ACT To amend the Agricultural Trade Development and Assistance Act of 1954 to authorize additional functions within the Enterprise for the Americas Initiative, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1.[1] SHORT TITLE.

This Act may be cited as the "Enterprise for the Americas Initiative Act of 1992".

SEC. 2.[2] GOOD NEIGHBOR ENVIRONMENTAL ACT OF 1992. * * *

SEC. 3.[3] ANNUAL REPORTS TO THE CONGRESS. * * *

SEC. 4.[4] CENTER FOR NORTH AMERICAN STUDIES.

(a) ESTABLISHMENT.—The Secretary of Agriculture shall establish a center, to be known as the Center For North American Studies, whose primary purpose shall be to promote better agricultural relationships among Canada, Mexico, and the United States through cooperative study, training, and research.

(b) LOCATION.—The Institute shall be located at an institution of higher education or at a consortium of such institutions.

(c) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated $10,000,000 for fiscal year 1994 and such sums as may necessary for each of fiscal years 1995 and 1996.

SEC. 5. STUDY OF THE EFFECT OF FREE TRADE WITH LATIN AMERICAN AND CARIBBEAN COUNTRIES ON THE UNITED STATES ECONOMY.

The President shall transmit to the Congress, not later than 8 months after the date of the enactment of this Act, a study describing—

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[1] 7 U.S.C. 1691 note.

[2] Sec. 2 added new secs. 616–619 to title VI of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738).

[3] Sec. 3 amended sec. 614(a) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738mm(a)).

[4] 7 U.S.C. 3294.

(1) in summary fashion, the likely effect on major United States industries and other sectors, including agriculture, that could be most affected by a hemispherical free trade zone with Latin American and Caribbean countries;

(2) the regions in the United States that would be most affected by a hemispherical free trade zone with Latin American and Caribbean countries and, in summary fashion, the nature of these effects;

(3) the extent to which horticultural exports from Latin American and Caribbean countries complement or compete with United States production;

(4) a country-by-country overview of recent economic developments in Latin American and Caribbean countries significantly influencing United States relations with such countries, including present trade and investment patterns in these regions;

(5) the likely effect of a hemispherical free trade zone with Latin American and Caribbean countries on the United States economy and its multilateral interrelationship with other countries in the region, including Canada and Mexico;

(6) the extent to which manufactured products exported from Latin American and Caribbean countries complement or compete with United States production; and

(7) the likely effects of a hemispherical free trade zone with Latin American and Caribbean countries on existing environmental, agricultural, labor, and consumer protection laws and practices within the United States and within the other countries included in the zone.

SEC. 6.[5] THE GOOD NEIGHBOR ENVIRONMENTAL BOARD.

(a) ESTABLISHMENT.—The President shall establish an advisory board to be known as the Good Neighbor Environmental Board (hereinafter in this section referred to as the "Board").

(b) PURPOSE.—The purpose of the Board shall be to advise the President and the Congress on the need for implementation of environmental and infrastructure projects (including projects that affect agriculture, rural development, and human nutrition) within the States of the United States contiguous to Mexico in order to improve the quality of life of persons residing on the United States side of the border.

(c) MEMBERSHIP.—The Board shall be composed of—

(1) representatives from the United States Government, including a representative from the Department of Agriculture and representatives from other appropriate agencies;

(2) representatives from the governments of the States of Arizona, California, New Mexico, and Texas; and

(3) representatives from private organizations, including community development, academic, health, environmental, and other nongovernmental entities with experience and expertise on environmental and infrastructure problems along the southwest border.

(d) ANNUAL REPORTS TO THE PRESIDENT AND CONGRESS.—

(1) IN GENERAL.—The Board shall submit to the President and the Congress of the United States an annual report on—

[5] 7 U.S.C. 5404.

(A) the environmental and infrastructure projects referred to in subsection (a) that have been implemented, and

(B) the need for the implementation of additional environmental and infrastructure projects.

(2) TRANSMISSION OF COPIES TO BOARD MEMBERS.—The Board shall—

(A) transmit to each member of the Board a copy of any report to be submitted pursuant to paragraph (1) at least 14 days before its submission, and

(B) allow each member of the Board to have 14 days within which to prepare and submit supplemental views with respect to the recommendations of the Board for inclusion in such report.

e. Food, Agriculture, Conservation, and Trade Act of 1990

Partial text of Public Law 101–624 [S. 2830], 104 Stat. 3359, approved November 28, 1990; amended by Public Law 102–237 [Food, Agriculture, Conservation, and Trade Act Amendments of 1991; H.R. 3029], 105 Stat. 1818, approved December 13, 1991; Public Law 104–127 [Federal Agriculture Improvement and Reform Act of 1996; H.R. 2854], 110 Stat. 888, approved April 4, 1996; and by Public Law 107–171 [Farm Security and Rural Investment Act of 2002; H.R. 2646], 116 Stat. 134, approved May 13, 2002

NOTE.—The Food, Agriculture, Conservation, and Trade Act of 1990 amended several other Public Laws; these amendments are incorporated into the texts of these Acts at the appropriate locations. Title XV, the Agricultural Development and Trade Act of 1990, may be found at page 1415; Title XXIV, the Global Climate Change Prevention Act of 1990, may be found in *Legislation on Foreign Relations Through 2004*, vol. IV, sec. L. The one freestanding section of subtitle A of title XV, the Mickey Leland Food for Peace Act, was repealed in 1996.

AN ACT To extend and revise agricultural price support and related programs, to provide for agricultural export, resource conservation, farm credit, and agricultural research and related programs, to ensure consumers an abundance of food and fiber at reasonable prices, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1.[1] SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Food, Agriculture, Conservation, and Trade Act of 1990".

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TITLE IX—SUGAR

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SEC. 903.[2] REPORTS ON QUOTA ALLOCATIONS TO COUNTRIES IMPORTING SUGAR. * * *

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[1] 7 U.S.C. 1421 note.
[2] Sec. 903 amended sec. 902(c) of the Food Security Act of 1985 (7 U.S.C. 1446 note).

TITLE XII—STATE AND PRIVATE FORESTRY

SEC. 1201.[3] SHORT TITLE.

This title may be cited as the "Forest Stewardship Act of 1990".

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SUBTITLE B—RESEARCH AND EDUCATION

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CHAPTER 2—SPECIALIZED RESEARCH

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SEC. 1247.[4] INTERNATIONAL FOREST PRODUCTS TRADE INSTITUTE.

(a) ESTABLISHMENT.—The Secretary of Agriculture may establish an International Forest Products Trade Institute (hereafter in this section referred to [5] as the "Institute").

(b) MISSION.—The mission of the Institute will be to increase the competitive position of the forest industries of the northeastern United States as major producers of international forest products in order to increase domestic employment and stimulate rural development, and to provide a knowledgeable, objective analysis of global forest resource problems.

(c) FUNCTIONS.—The Institute shall—

(1) emphasize the application of existing knowledge to the manufacturing and international marketing of forest products as well as conduct new research related to the competitiveness of the northeastern forest products industry;

(2) study and evaluate domestic and international forest, forest sector, agroforestry, development, economic, and trade policies;

(3) design, analyze and test technologically appropriate manufacturing, processing and marketing systems which are supportive of and consistent with forest policy and management strategies formulated by the Institute and which enhance opportunities for markets in forest products; and

(4) formulate and test management strategies for—

(A) United States forests, and

(B) manufacturing facilities that promote ecologically sustainable use, and long-term management, of international forests.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

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TITLE XIII—FRUITS, VEGETABLES, AND MARKETING

SUBTITLE A—FRUITS AND VEGETABLES

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[3] 16 U.S.C. 2101 note.
[4] 16 U.S.C. 2112 note.
[5] Sec. 1018(c) of Public Law 102–237 (105 Stat. 1905) struck out "in this section" here.

SEC. 1308. MARKETING ORDERS.

Section 8e of the Agricultural Adjustment Act (7 U.S.C. 608e–1), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by—

(1) striking "(a) Notwithstanding any other provision of law," in the first sentence, and inserting in its place "(a) Subject to the provisions of subsections (c) and (d) and notwithstanding any other provision of law,";

(2) adding at the end thereof the following new subsections:

"(c) Prior to any import prohibition or regulation under this section being made effective with respect to any commodity—

"(1) the Secretary of Agriculture shall notify the United States Trade Representative of such import prohibition or regulation; and

"(2) the United States Trade Representative shall advise the Secretary of Agriculture, within 60 days of the notification under paragraph (1), to ensure that the application of the grade, size, quality, and maturity provisions of the relevant marketing order, or comparable restrictions, to imports is not inconsistent with United States international obligations under any trade agreement, including the General Agreement on Tariffs and Trade.

"(d) The Secretary may proceed with the proposed prohibition or regulation if the Secretary receives the advice and concurrence of the United States Trade Representative within 60 days of the notification under subsection (c)(1).".

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TITLE XV—AGRICULTURAL TRADE

SEC. 1501.[6] SHORT TITLE.

This title may be cited as the "Agricultural Development and Trade Act of 1990".

SUBTITLE A—AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954

SEC. 1511.[7] SHORT TITLE.

This subtitle may be cited as the "Mickey Leland Food for Peace Act".

SEC. 1512.[8] AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954.

The Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.) is amended to read as follows:

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[6] 7 U.S.C. 1691 note. For text of the freestanding sections of the Agricultural Development and Trade Act of 1990, see page 1415.

[7] 7 U.S.C. 1691 note. The one freestanding section of the Mickey Leland Food for Peace Act, sec. 1517—Debt-for-Health-and Protection Swap, was repealed by sec. 265 of the Federal Agriculture Improvement and Reform Act of 1996 (Public Law 104–127; 110 Stat. 974).

[8] Sec. 1512 amended the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 *et seq.*).

SEC. 1543A.[9] BIOTECHNOLOGY AND AGRICULTURAL TRADE PROGRAM.

(a) ESTABLISHMENT.—There is established in the Department the biotechnology and agricultural trade program.

(b) PURPOSE.—The purpose of the program shall be to remove, resolve, or mitigate significant regulatory nontariff barriers to the export of United States agricultural commodities (as defined in section 102 of the Agricultural Trade Act of 1978 (7 U.S.C. 5602)) into foreign markets through public and private sector projects funded by grants that address—

(1) quick response intervention regarding nontariff barriers to United States exports involving—

(A) United States agricultural commodities produced through biotechnology;

(B) food safety;

(C) disease; or

(D) other sanitary or phytosanitary concerns; or

(2) developing protocols as part of bilateral negotiations with other countries on issues such as animal health, grain quality, and genetically modified commodities.

(c) ELIGIBLE PROGRAMS.—Depending on need, as determined by the Secretary, activities authorized under this section may be carried out through—

(1) this section;

(2) the emerging markets program under section 1542; or

(3) the Cochran Fellowship Program under section 1543.

(d) FUNDING.—There is authorized to be appropriated $6,000,000 for each of fiscal years 2002 through 2007.

TITLE XVI—RESEARCH

SUBTITLE A—EXTENSIONS AND CHANGES TO EXISTING PROGRAMS

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SEC. 1613. INTERNATIONAL AGRICULTURAL SCIENCE, EDUCATION, AND DEVELOPMENT AND INTERNATIONAL TRADE DEVELOPMENT CENTERS.

(a) SCIENCE, EDUCATION, AND DEVELOPMENT.—Subsection (a) of section 1458 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3291(a)) is amended to read as follows: * * *[10]

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SUBTITLE H—MISCELLANEOUS RESEARCH PROVISIONS

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SEC. 1678.[11] * * * [Repealed—1996]

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[9] 7 U.S.C. 5679. Added by sec. 3204 of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 300).

[10] For text, see page 1532.

[11] Formerly at 7 U.S.C. 5931. Sec. 865 of Public Law 104–127 (110 Stat. 1174) repealed sec. 1678, which had authorized the Secretary of Agriculture to provide at least two special grants to land-grant colleges and universities to conduct a study evaluating the trade impacts of technical barriers, quality factors, and end-use characteristics in agricultural trade to determine whether such factors are consistent between commodities.

TITLE XXIV—GLOBAL CLIMATE CHANGE [12]

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[12] Title XXIV, the "Global Climate Change Prevention Act of 1990", may be found in *Legislation on Foreign Relations Through 2004*, vol. IV, sec. L.

f. Agricultural Development and Trade Act of 1990

Title XV of Public Law 101–624 [Food, Agriculture, Conservation, and Trade Act of 1990; S. 2830], 104 Stat. 3359 at 3632, approved November 28, 1990; amended by Public Law 102–237 [Food, Agriculture, Conservation, and Trade Act Amendments of 1991; H.R. 3029], 105 Stat. 1818, approved December 13, 1991; Public Law 102–511 [FREEDOM Support Act, S. 2532], 106 Stat. 3320, approved October 24, 1992; Public Law 102–583 [International Narcotics Control Act of 1992; H.R. 6187], 106 Stat. 4914, approved November 2, 1992; Public Law 103–182 [North American Free Trade Agreement Implementation Act; H.R. 3450], 107 Stat. 2057, approved December 8, 1993; Public Law 104–66 [Federal Reports Elimination and Sunset Act of 1995; S. 790], 109 Stat. 707, approved December 21, 1995; and by Public Law 104–127 [Federal Agriculture Improvement and Reform Act of 1996; H.R. 2854], 110 Stat. 888, approved April 4, 1996

NOTE.—The Food, Agriculture, Conservation, and Trade Act of 1990 amended several other Public Laws; these amendments are incorporated into the texts of these Acts at the appropriate locations. Title XV appears here as the Agricultural Development and Trade Act of 1990. Free-standing sections of Public Law 101–624 may be found at page 1410; title XXIV, the Global Climate Change Prevention Act of 1990, may be found in *Legislation on Foreign Relations Through 2004*, vol. IV, sec. L. The one free-standing section of subtitle A of title XV, the Mickey Leland Food for Peace Act, was repealed in 1996.

AN ACT To extend and revise agricultural price support and related programs, to provide for agricultural export, resource conservation, farm credit, and agricultural research and related programs, to ensure consumers an abundance of food and fiber at reasonable prices, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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TITLE XV—AGRICULTURAL TRADE

SEC. 1501.[1] SHORT TITLE.

This title may be cited as the "Agricultural Development and Trade Act of 1990".

[1] 7 U.S.C. 1691 note.

SUBTITLE A—AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954

SEC. 1511.[2] SHORT TITLE.

This subtitle may be cited as the "Mickey Leland Food for Peace Act".

SEC. 1512.[3] AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954.

The Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.) is amended to read as follows:

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SUBTITLE C—EXPORT PROMOTION

SEC. 1531.[4] AMENDMENT TO THE AGRICULTURAL TRADE ACT OF 1978.

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SUBTITLE D—GENERAL PROVISIONS

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SEC. 1542.[5] PROMOTION OF AGRICULTURAL EXPORTS TO EMERGING MARKETS.

(a) FUNDING.—The Commodity Credit Corporation shall make available for fiscal years 1996 through 2007[6] not less than $1,000,000,000 of direct credits or export credit guarantees for exports to emerging markets under section 201 or 202 of the Agricultural Trade Act of 1978 (7 U.S.C. 5621 and 5622), in addition to the amounts acquired or authorized under section 211 of the Act (7 U.S.C. 5641) for the program.

(b)[7] FACILITIES AND SERVICES.—A portion of such export credit guarantees shall be made available[8] for—

(1) the establishment or improvement of facilities, or

(2) the provision of services or United States produced goods,

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[2] 7 U.S.C. 1691 note. The one freestanding section of the Mickey Leland Food for Peace Act, sec. 1517—Debt-for-Health-and-Protection Swap, was repealed by sec. 265 of the Federal Agriculture Improvement and Reform Act of 1996 (Public Law 104–127; 110 Stat. 974).

[3] Sec. 1512 amended the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 *et seq.*).

[4] Sec. 1531 amended the Agricultural Trade Act of 1978 (7 U.S.C. 1761 *et seq.*).

[5] 7 U.S.C. 5622 note. Sec. 277(a)(1)(A) of Public Law 104–127 (110 Stat. 977) struck out "**EMERGING DEMOCRACIES**" from the section catchline, and inserted in lieu thereof "**EMERGING MARKETS**". Sec. 277(a)(2) of that Act amended and restated subsec. (a), which had formerly read, as amended, as follows:

"(a) GUARANTEES TO BE MADE AVAILABLE.—The Commodity Credit Corporation, for the fiscal years 1991 through 1995 shall make available not less than $1,000,000,000 of direct credits or export credit guarantees for exports to emerging democracies under section 201 or 202 of the Agricultural Trade Act of 1978, in addition to the amounts required or authorized under section 211 of that Act for such program.".

[6] Sec. 3203 of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 300) struck out "2002" and inserted in lieu thereof "2007".

[7] Sec. 706(2)(A) of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3350) struck out the subsec. heading "IMPROVEMENT OF FACILITIES.—" and inserted in lieu thereof "FACILITIES AND SERVICES.—".

[8] Sec. 706(2)(B) of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3350) struck out "for the establishment or improvement by United States persons of facilities in emerging democracies" following "shall be made available" and inserted in lieu thereof "for—" and paras. (1) and (2), through "by United States persons".

in emerging markets[9] by United States persons[8] to improve handling, marketing, processing, storage, or distribution of imported agricultural commodities and products thereof if the Secretary of Agriculture determines that such guarantees will primarily promote the export of United States agricultural commodities (as defined in section 102(7)[10] of the Agricultural Trade Act of 1978). The[11] Commodity Credit Corporation shall give priority under this subsection to—

(A) projects that encourage the privatizations of the agricultural sector or that benefit private farms or cooperatives in emerging markets; and

(B) projects for which nongovernmental persons agree to assume a relatively larger share of the costs.

(c) CONSULTATIONS.—Before the authority under this section is exercised, the Secretary of Agriculture shall consult with exporters of United States agricultural commodities (as defined in section 102(7)[10] of the Agricultural Trade Act of 1978), nongovernmental experts, and other Federal Government agencies in order to ensure that facilities in an emerging market[12] for which financing is guaranteed under paragraph (1)(B) do not primarily benefit countries which are in close geographic proximity to that emerging market.[12]

(d)[13] E (KIKA) DE LA GARZA AGRICULTURAL FELLOWSHIP PROGRAM.—The Secretary of Agriculture (hereafter in this section referred to as the "Secretary") shall establish a program, to be known as the "E (Kika) de la Garza Agricultural Fellowship Program", to develop agricultural markets in emerging markets[9] and to promote cooperation and exchange of information between agricultural institutions and agribusinesses in the United States and emerging markets,[14] as follows:

(1) DEVELOPMENT OF AGRICULTURAL SYSTEMS.—

(A) IN GENERAL.—

(i) ESTABLISHMENT OF PROGRAM.—For each of the fiscal years 1991 through 2007,[15] the Secretary of Agriculture (hereafter in this section referred to as the "Secretary"), in order to develop, maintain, or expand markets for United States agricultural exports, is di-

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[9] Sec. 277(a)(1)(B) of Public Law 104–127 (110 Stat. 977) struck out "emerging democracies" each place it appeared in subsecs. (b), (d), and (e), and inserted in lieu thereof "emerging markets".

[10] Sec. 277(a)(4) of Public Law 104–127 (110 Stat. 978) struck out "section 101(6)" and inserted in lieu thereof "section 102(7)".

[11] Sec. 706(2)(C) of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3350) struck out the last sentence which read "The Commodity Credit Corporation shall give priority under this subsection to opportunities or projects identified under subsection (d).", and inserted in lieu thereof "The Commodity Credit Corporation shall give priority under this subsection—" to the end of the subsection. Subsequently, sec. 277(a)(3)(A) of Public Law 104–127 (110 Stat. 977) amended and restated the last sentence.

[12] Sec. 277(a)(1)(C) of Public Law 104–127 (110 Stat. 977) struck out "emerging democracy" and inserted in lieu thereof "emerging market".

[13] Sec. 338(1) of Public Law 102–237 (105 Stat. 1859) struck out subsec. (d) heading, which had read "SHARING UNITED STATES AGRICULTURAL EXPERTISE.", inserted a new heading and new text through heading of first para. (1).

Sec. 338 of Public Law 102–237 further restated this subsection, and added a new para. (2) to establish the Agricultural Information Program.

[14] Sec. 277(a)(3)(B)(i) of Public Law 104–127 (110 Stat. 977) struck out "the Soviet Union" and inserted in lieu thereof "emerging markets".

[15] Sec. 3203 of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 300) struck out "2002" and inserted in lieu thereof "2007". Previously, sec. 277(a)(3)(B)(ii)(I)(aa) of Public Law 104–127 (110 Stat. 978) struck out "1995" and inserted in lieu thereof "2002".

rected to make available to emerging markets[9] the expertise of the United States to make assessments of the food and rural business systems needs of such democracies,[16] make recommendations on measures necessary to enhance the effectiveness of the systems, including potential reductions in trade barriers, and identify and carry out[17] specific opportunities and projects to enhance the effectiveness of those systems.

(ii) EXTENT OF PROGRAM.—The Secretary shall implement this paragraph with respect to at least 3 emerging markets[9] in each fiscal year.

(B) EXPERTS FROM THE UNITED STATES.—The Secretary may[18] implement the requirements of subparagraph (A)—

(i) by providing assistance to teams consisting primarily of agricultural consultants, farmers, other persons from the private sector,[19] and government officials expert in assessing the food and rural business systems of other countries to enable such teams to conduct the assessments, make the recommendations, and identify the opportunities and projects specified in subparagraph (A) in emerging markets;[9]

(ii) by providing necessary subsistence expenses in the United States and necessary transportation expenses by individuals designated by emerging markets[9] to enable such individuals to consult with food and rural business system experts in the United States to enhance such systems of such emerging markets;[20] and

(iii) by providing for necessary subsistence expenses in emerging markets[20] and necessary transportation expenses of United States agricultural producers and other individuals knowledgeable in agricultural and agribusiness matters to assist in transferring their knowledge and expertise to entities in emerging markets.[20]

(C) COST-SHARING.—The Secretary shall encourage the nongovernmental experts described in subparagraph (B) to share the costs of, and otherwise assist in, the participation of such experts in the program under this paragraph.

(D)[21] TECHNICAL ASSISTANCE.—The Secretary is authorized to provide, or pay the necessary costs for, technical as-

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[16] Reference to "democracies" should probably have been amended to read "markets" in keeping with other amendments to this section by sec. 277 of Public Law 104–127.

[17] Sec. 277(a)(3)(B)(ii)(I)(bb) of Public Law 104–127 (110 Stat. 977) struck out "those systems, and identify" and inserted in lieu thereof "the systems, including potential reductions in trade barriers, and identify and carry out".

[18] Sec. 277(a)(3)(B)(ii)(II) of Public Law 104–127 (110 Stat. 978) struck out "shall" and inserted in lieu thereof "may".

[19] Sec. 706(3) of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3350) inserted ", farmers, other persons from the private sector," after "agricultural consultants".

[20] Sec. 277(a)(1)(B) of Public Law 104–127 (110 Stat. 977) struck out "emerging democracies" each place it appeared in subsecs. (b), (d), and (e), and inserted in lieu thereof "emerging markets".

[21] Sec. 706(4) of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3350) restated subpara. (D), which had read as follows:

"(D) TECHNICAL ASSISTANCE.—The Secretary is authorized to provide technical assistance to implement the recommendations, or in connection with the opportunities or projects identified, under subparagraph (A).".

sistance (including the establishment of extension services)[22] to enable individuals or other entities to implement the recommendations or to carry out the opportunities and projects identified under paragraph (1)(A). Notwithstanding any other provision of law, the assistance shall include assistance for administrative and overhead expenses of the International Cooperation and Development Program Area of the Foreign Agriculture Service, to the extent that the expenses were incurred pursuant to reimbursable agreements entered into prior to September 30, 1993, the expenses do not exceed $2,000,000 per year, and the expenses are not incurred for information technology systems.[23]

(E) REPORTS TO SECRETARY.—A team that receives assistance under subparagraph (B) shall prepare such reports as the Secretary may designate.

(F)[24] ADVISORY COMMITTEE.—To provide the Secretary with information that may be useful to the Secretary in carrying out the provisions of this paragraph, the Secretary shall establish an advisory committee composed of representatives of the various sectors of the food and rural business systems of the United States.

(G)[24] USE OF CCC.—The Secretary shall implement this paragraph through the funds and facilities of the Commodity Credit Corporation. The authority provided under this paragraph shall be in addition to and not in place of any other authority of the Secretary or the Commodity Credit Corporation.

(H)[24] LEVEL OF ASSISTANCE.—The Secretary shall provide assistance under this paragraph of not more than $10,000,000 in any fiscal year.

(2) AGRICULTURAL INFORMATION PROGRAM.—

(A) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program, administered to complement the emerging markets[20] export promotion program developed under this section, to initiate and develop collaboration between the United States Department of Agriculture, United States agribusinesses, and appropriate agricultural institutions in emerging markets[25] in order to promote the exchange of information and resources that will make a long-term contribution to the establishment of free market food production and distributions systems[26] in emerging markets[25] and the enhancement of agricultural trade with the United States.

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[22] Sec. 277(a)(3)(B)(ii)(III) of Public Law 104–127 (110 Stat. 978) inserted "(including the establishment of extension services)" after "technical assistance".

[23] Sec. 278 of Public Law 104–127 (110 Stat. 979) added the last sentence to subpara. (D).

[24] Sec. 277(a)(3)(B)(ii)(IV) of Public Law 104–127 (110 Stat. 978) struck out subpara. (F), which had required the Secretary of Agriculture to report to Congress annually on activities carried out under this paragraph. Sec. 277(a)(3)(B)(ii)(V) redesignated subparas. (G), (H), and (I), as subparas. (F), (G), and (H), respectively.

[25] Sec. 277(a)(3)(B)(iii)(I) of Public Law 104–127 (110 Stat. 978) struck out "the Soviet Union" throughout para. (2), and inserted in lieu thereof "emerging markets".

[26] Sec. 277(a)(3)(B)(iii)(II) of Public Law 104–127 (110 Stat. 978) struck out "a free market food production and distribution system" and inserted in lieu thereof "free market food production and distribution systems".

(B) IMPLEMENTATION.—The Secretary shall draw on the Department of Agriculture's experience to design, implement, and evaluate, on a cost-sharing basis with cooperating agricultural institutions, a program to—

(i) compile, through contacts with the governments[27] of emerging markets[25] and private sector officials in emerging markets,[25], list of their agricultural institutions, including the location, capabilities, and needs of the institutions;

(ii) make such information available through an appropriate agency of the Department of Agriculture to agribusinesses and agricultural institutions in the United States and other agencies of the United States Government; and

(iii) carry out a program—

(I) to review available agricultural information resources, to determine which would be useful for the purposes of this program;

(II) to arrange for the exchange of persons associated with such agricultural institutions and agribusinesses with experience or interest in the areas of need identified in clause (i);[28]

(III) to help establish contacts between agricultural entrepreneurs and businesses in the United States and emerging markets,[25] which may include individuals and entities participating in the program established under paragraph (1), to facilitate cooperation and joint enterprises; and[28]

(IV)[28] to provide for the exchange of administrators and faculty members from agricultural and other institutions to strengthen and revise educational programs in agricultural economics, agribusiness, and agrarian law, to support change towards a free market economy in emerging markets.

(C) CONSULTATION AND COORDINATION.—The Secretary shall consult and coordinate with the Secretary of State and the Agency for International Development in the formulation and implementation of this program in conjunction with overall assistance to emerging markets.[25]

(D)[29] AUTHORIZATION FOR APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the program established under this paragraph.

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[27] Sec. 277(a)(3)(B)(iii)(III)(aa) of Public Law 104–127 (110 Stat. 978) struck out "Government" and inserted in lieu thereof "governments".

[28] Sec. 277(a)(3)(B)(iii)(III) of Public Law 104–127 (110 Stat. 978) struck out "and" at the end of subclause (II); struck the period at the end of subclause (III) and inserted in lieu thereof "; and"; and added a new subclause (IV).

[29] Sec. 277(a)(3)(B)(iii)(IV) and (V) of Public Law 104–127 (110 Stat. 978) struck out subpara. (D), and redesignated subpara. (E) as subpara. (D). Sec. 277(a)(3)(B)(iv) of that Act struck out para. (3), which had authorized the Secretary of Agriculture to grant fellowships to individuals from countries that are parties to the North American Free Trade Agreement to study agriculture in the United States, and to individuals in the United States to study agriculture in other NAFTA countries. The paragraph had been added by sec. 321(g) of the North American Free Trade Agreement Implementation Act (Public Law 103–182; 107 Stat. 2112).

(e) FOREIGN DEBT BURDENS.—

(1) EFFECT OF CREDITS.—In carrying out the program described in subsection (a), the Secretary of Agriculture shall ensure that the credits for which repayment is guaranteed under subsection (a) do not negatively affect the political and economic situation in emerging markets[20] by excessively adding to the foreign debt burdens of such countries.

(2) CONSULTATION AND REPORT.—Subject to section 217 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6917), not[30] later than 6 months after the effective date of this title, and not later than the end of each 6-month period occurring thereafter, the Secretary of Agriculture, in consultation with other appropriate Federal departments, shall prepare and transmit to the Committee on Foreign Affairs[31] and the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report to assist the Congress in assessing the extent to which credits for which repayment is guaranteed under subsection (a) meet the requirements of paragraph (1). The report shall include—

(A) the amount and allocation, by country, of credit guarantees issued under subsection (a);

(B) the aggregate foreign debt burdens of countries receiving commodities or facilities under such credit guarantees, expressed in terms of debt on account of agricultural commodities or products thereof, or facilities for which guarantees may be made under subsection (a)(1)(B), and all other debt;

(C) the activities of creditor governments and private creditors to reschedule or reduce payments due on existing debt owed to such creditors by a country in cases where such country has been unable to fully meet its debt obligations; and

(D) an analysis of—

(i) the economic effects of the foreign debt burden of each recipient country, and in particular the economic effects on each recipient country of the credits for which repayment is guaranteed under subsection (a); and

(ii) the relationship between any negative economic effects on any recipient country caused by its overall foreign debt burden and debt incurred under subsection (a) and such country's political stability.

(f)[32] EMERGING MARKET.—In this section and section 1543, the term "emerging market" means any country that the Secretary determines—

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[30] Sec. 277(a)(5) of Public Law 104–127 (110 Stat. 978) struck out "Not" and inserted in lieu thereof "Subject to section 217 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6917), not".

[31] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

[32] Sec. 277(a)(1)(D) of Public Law 104–127 (110 Stat. 977) amended and restated subsec. (f). Prior to this amendment, authority to determine what countries were taking steps toward polit-

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(1) is taking steps toward a market-oriented economy through the food, agriculture, or rural business sectors of the economy of the country; and

(2) has the potential to provide a viable and significant market for United States agricultural commodities or products of United States agricultural commodities.

SEC. 1543.[33] AGRICULTURAL FELLOWSHIP PROGRAM FOR MIDDLE INCOME COUNTRIES, EMERGING DEMOCRACIES, AND EMERGING MARKETS.

(a) ESTABLISHMENT.—The Secretary of Agriculture shall establish a fellowship program for,[34] to be known as the "Cochran Fellowship Program", to provide fellowships to individuals from eligible countries (as determined under subsection (b))[34] who specialize in agriculture for study in the United States.

(b) ELIGIBLE COUNTRIES.—Countries described in any of the following paragraphs[35] shall be eligible to participate in the program established under this section:

(1) MIDDLE-INCOME COUNTRY.—A country that has developed economically to the point where it no longer qualifies for bilateral foreign aid assistance from the United States because its per capita income level exceeds the eligibility requirements of such assistance programs (hereafter referred to in this section as a "middle-income" country).

(2) ONGOING RELATIONSHIP.—A middle-income country that has never qualified for bilateral foreign aid assistance from the United States, but with respect to which an ongoing relationship with the United States, including technical assistance and training, would provide mutual benefits to such country and the United States.

(3) TYPE OF GOVERNMENT.—A country that has recently begun the transformation of its system of government from a non-representative type of government to a representative democracy and that is encouraging democratic institution building, and the cultural values, institutions, and organizations of democratic pluralism.

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ical pluralism, certain economic reforms, respect for international recognized human rights, and a friendly relationship with the United States, rested with the President. On August 10, 1995, the President determined:

"that the following countries are taking steps set forth in section 1542(f) of the Act to qualify as emerging democracies for purposes of that section:

"Albania, Bangladesh, Belarus, Bosnia and Herzegovina, Bulgaria, Cambodia, Croatia, Czech Republic, Egypt, El Salvador, Estonia, the former Yugoslav Republic of Macedonia, Ghana, Guatemala, Hungary, Jordan, Kazakhstan, Latvia, Lithuania, Morocco, Namibia, Nicaragua, Pakistan, Panama, the Philippines, Poland, Romania, Russia, Slovak Republic, Slovenia, South Africa, Tanzania, Tunisia, Ukraine, Yemen, and Zimbabwe.

"In making this determination, I have considered the eligibility only of those countries for which programs are underway or currently contemplated by the Department of Agriculture." (Presidential Determination No. 95–35; 60 F.R. 44723).

[33] 7 U.S.C. 3293. Sec. 277(b)(1) of Public Law 104–127 (110 Stat. 979) struck out "**MIDDLE INCOME COUNTRIES AND EMERGING DEMOCRACIES**" from the section catchline, and inserted in lieu thereof "**MIDDLE INCOME COUNTRIES, EMERGING DEMOCRACIES, AND EMERGING MARKETS**".

[34] Sec. 705(a)(1) of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3349) struck out "middle income countries and emerging democracies" after "program for," and inserted in lieu thereof "(as determined under subsection (b))" after "eligible countries". Should read "* * * a fellowship program to be known as * * *".

[35] Sec. 705(a)(2)(A) of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3349) struck out "that meet the following requirements" after "Countries", and inserted in lieu thereof "described in any of the following paragraphs".

(4)[36] INDEPENDENT STATES OF THE FORMER SOVIET UNION.—A country that is an independent state of the former Soviet Union (as defined in section 102(8) of the Agricultural Trade Act of 1978 (7 U.S.C. 5602(8)), to the extent that the Secretary of Agriculture determines that such country should be eligible to participate in the program established under this section.

(5)[37]EMERGING MARKET.—Any emerging market, as defined in section 1542(f).

(c) PURPOSE OF THE FELLOWSHIPS.—Fellowships under this section shall be provided to permit the recipients to gain knowledge and skills that will—

(1) assist eligible countries to develop agricultural systems necessary to meet the food and fiber needs[38] of their domestic populations; and

(2) strengthen and enhance trade linkages between eligible countries and agricultural interests in the United States.

(d) INDIVIDUALS WHO MAY RECEIVE FELLOWSHIPS.—The Secretary shall utilize the expertise of United States agricultural counselors, trade officers, and commodity trade promotion groups working in participating countries to help identify program candidates for fellowships under this section from both the public and private sectors of those countries. The Secretary may provide fellowships under the program authorized by this section to private agricultural producers from eligible countries.[39]

(e) PROGRAM IMPLEMENTATION.—The Secretary shall consult with other United States Government agencies, United States universities, and the private agribusiness sector, as appropriate, to design and administer training programs to accomplish the objectives of the program[40] established under this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated without fiscal year limitation such sums as may be necessary to carry out the program established under this section, except that the amount of such funds in any fiscal year shall not exceed—

(1) for eligible countries that meet the requirements of subsection (b)(1), $3,000,000;

(2) for eligible countries that meet the requirements of subsection (b)(2), $2,000,000; and

(3) for eligible countries that meet the requirements of subsection (b)(3), $5,000,000.

(g) COMPLEMENTARY FUNDS.—If the Secretary of Agriculture determines that it is advisable in furtherance of the purposes of the program established under this section, the Secretary may accept money, funds, property, and services of every kind by gift, devise, bequest, grant, or otherwise, and may, in any manner, dispose of all such holdings and use the receipts generated from such disposi-

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[36] Sec. 705(a)(2)(B) of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3349) added para. (4).

[37] Sec. 277(b)(2) of Public Law 104–127 (110 Stat. 979) added para. (5).

[38] Sec. 277(b)(3) of Public Law 104–127 (110 Stat. 979) struck out "food needs" and inserted in lieu thereof "food and fiber needs".

[39] Sec. 705(b) of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3350) added the last sentence in subsec. (d).

[40] Sec. 1002 of Public Law 102–237 (105 Stat. 1894) struck out "Program" and inserted in lieu thereof "program".

tion as general program funds under this section. All funds so designated for the program established under this section shall remain available until expended.

SEC. 1544.[41] **ASSISTANCE IN FURTHERANCE OF NARCOTICS CONTROL OBJECTIVES OF THE UNITED STATES.**

(a) WAIVER OF CERTAIN RESTRICTIONS.—For the purpose of reducing dependence upon the production of crops from which narcotic and psychotropic drugs are derived, the President may provide economic assistance for a country which, because of its coca production, is a major illicit drug producing country (as defined in section 481(e)(2)[42] of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(i)(2))) to promote the production, processing, or the marketing of products which can be economically produced in such country, notwithstanding the provisions of law described in subsection (b) of this section.

(b) DESCRIPTION OF RESTRICTIONS WAIVED.—The provisions of law made inapplicable by subsection (a) are any other provisions of law that would otherwise restrict the use of economic assistance funds with respect to the production, processing, or marketing of agricultural commodities (or the products thereof) or other products, including sections 521, 546, and 547 (but excluding section 510) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, and comparable provisions of subsequent Acts appropriating funds for foreign operations, export financing, and related programs.

(c) DEFINITION OF ECONOMIC ASSISTANCE.—As used in this section, the term "economic assistance" means assistance under chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following; relating to development assistance) and assistance under chapter 4 of part II of that Act (22 U.S.C. 2346 and following; relating to the economic support fund).

SEC. 1545.[43] * * * [Repealed—1996]

SUBTITLE E—STUDIES, REPORTS, AND OTHER PROVISIONS[44]

SEC. 1551. * * * [Repealed—1996]

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[41] 22 U.S.C. 2151x–2.

[42] Formerly read "section 481(i)(2)". Sec. 6(a) of Public Law 102–583 (106 Stat. 4932), however, provided that "Any reference in any provision of law enacted before the date of enactment of this Act to section 481(e) or section 481(i) of that Act shall be deemed to be a reference to section 489 or section 481(e) (as amended * * *)".

[43] Formerly at 7 U.S.C. 1761 note. 273 of Public Law 104–127 (110 Stat. 976) repealed sec. 1545, relating to world livestock market price information.

[44] Sec. 281(a) of Public Law 104–127 (110 Stat. 980) repealed the following sections from this subtitle: sec. 1551—study of North American free trade area; sec. 1552—rose and flower study; sec. 1553—commodity transportation and technology assessment and report; sec. 1554—report on sec. 22 suspension (Agricultural Adjustment Act) or termination; sec. 1555—agricultural exports to the European Community; sec. 1558—sense of Congress concerning rebalancing proposal of the European Community (redesignated from sec. 1559 by sec. 1011(d) of Public Law 104–66; 109 Stat. 709); and sec. 1559—sense of the Senate regarding multilateral trade negotiations ((redesignated from sec. 1560 by sec. 1011(d) of Public Law 104–66; 109 Stat. 709).

SEC. 1552. * * * [Repealed—1996]

SEC. 1553. * * * [Repealed—1996]

SEC. 1554. * * * [Repealed—1996]

SEC. 1555. * * * [Repealed—1996]

SEC. 1556.[45] **LANGUAGE PROFICIENCY AND EVALUATION OF FOREIGN AGRICULTURAL SERVICE OFFICERS.**

(a) ASSESSMENT OF FOREIGN LANGUAGE COMPETENCE.—The Foreign Agricultural Service shall revise its evaluation reports for its Foreign Service officers so as to require in a separate entry an assessment of the officer's effectiveness in using, in his or her work, a foreign language or foreign languages tested at the General Professional Speaking Proficiency level or above, in cases where the supervisor is capable of making such an assessment.

(b) PRECEDENCE IN PROMOTION.—The Director of Personnel of the Foreign Agricultural Service shall instruct promotion panels to take account of language ability and, all criteria for promotion otherwise being equal, to give precedence in promotions to officers who have achieved at least the General Professional Speaking Proficiency level in 1 or more foreign languages over officers who lack that level of proficiency.

SEC. 1557.[46] **REPORTING REQUIREMENTS RELATING TO TOBACCO.** * * *

SEC. 1558.[47] * * * [Repealed—1996]

SEC. 1559.[44, 47] * * * [Repealed—1996]

SUBTITLE F—CONFORMING PROVISIONS AND TECHNICAL CHANGES[48]

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[45] 7 U.S.C. 5694 note. Subsec. (c) of this section was struck out by sec. 281(b) of Public Law 104–127 (110 Stat. 980). It had required a report to Congress on language proficiency in Foreign Agricultural Services personnel.

[46] Sec. 1557 amended the Tobacco Adjustment Act of 1983 at 7 U.S.C. 509.

[47] Sec. 1011(d) of Public Law 104–66 (109 Stat. 709) repealed sec. 1558, which required a report on the origin of exports of peanuts. That section also redesignated secs. 1559 and 1560 as secs. 1558 and 1559, respectively. These two latter sections were subsequently repealed by sec. 281(a) of Public Law 104–127 (110 Stat. 980).

[48] Subtitle F amended the Omnibus Trade and Competitiveness Act of 1988, the Food Security Act of 1985, the Agriculture and Food Act of 1981, the Food for Peace Act of 1966, the Agricultural Act of 1949, the Agricultural Act of 1956, the Agricultural Technical Corrections Act (Public Law 101–220; 7 U.S.C. 1736cc), and the Agricultural Act of 1970.

g. Agricultural Act of 1949

Partial text of Public Law 81–439 [H.R. 5345], 63 Stat. 1051, approved October 31, 1949; as amended by Public Law 83–480 [S. 2475], 68 Stat. 458, approved July 10, 1954; Public Law 84–540 [H.R. 10875], 70 Stat. 203, approved May 28, 1956; Public Law 85–483 [H.R. 12164], 72 Stat. 286, approved July 2, 1958; Public Law 86–108 [H.R. 7500], 73 Stat. 250, approved July 24, 1959; Public Law 87–703 [H.R. 12391], 76 Stat. 611, approved September 27, 1962; Public Law 88–638 [S. 2687], 78 Stat. 1038, approved October 8, 1964; Public Law 89–808 [H.R. 14929], 80 Stat. 1538, approved November 11, 1966; Public Law 91–233 [S. 2595], 84 Stat. 199, approved April 17, 1970; Public Law 92–603 [H.R. 1], 86 Stat. 1492, approved October 30, 1972; Public Law 95–113 [S. 275], 91 Stat. 913, approved September 29, 1977; Public Law 96–494 [Agricultural Trade Suspension Adjustment Act of 1980, H.R. 3765], 94 Stat. 2570, approved December 3, 1980; Public Law 97–98 [Agriculture and Food Act of 1981, S. 884], 95 Stat. 1213, approved December 22, 1981; Public Law 97–253 [Omnibus Budget Reconciliation Act of 1982, H.R. 6955], 96 Stat. 766, approved September 8, 1982; Public Law 98–258 [Agricultural Programs Adjustment Act of 1984, H.R. 4072], 98 Stat. 137, approved April 10, 1984; Public Law 99–83 [S. 960], 99 Stat. 271, approved August 8, 1985; Public Law 99–198 [Food Security Act of 1985, H.R. 2100], 99 Stat. 1354, approved December 23, 1985; Public Law 99–260 [Food Security Improvements Act of 1986, H.R. 1614], 100 Stat. 45, approved March 20, 1986; Public Law 100–203 [Omnibus Budget Reconciliation Act of 1987, H.R. 3545], 101 Stat. 1330, approved December 22, 1987; Public Law 100–277 [Agricultural Act of 1949, Amendment; S. 2151], 102 Stat. 67, approved April 4, 1988; Public Law 100–418 [Omnibus Trade and Competitiveness Act of 1988, H.R. 4848], 102 Stat. 1107, approved August 23, 1988; Public Law 101–513 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991; H.R. 5114] 104 Stat. 2032, approved November 5, 1990; Public Law 101–624 [Food, Agriculture, Conservation, and Trade Act of 1990; S. 2830], 104 Stat. 3359, approved November 28, 1990; Public Law 102–289 [H.R. 4774], 106 Stat. 176, approved May 20, 1992; Public Law 103–306 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995; H.R. 4426], 108 Stat. 1608, approved August 23, 1994; Public Law 104–127 [Federal Agriculture Improvement and Reform Act of 1996; H.R. 2854] 110 Stat. 888, approved April 4, 1996; Public Law 107–171 [Farm Security and Rural Investment Act of 2002; H.R. 2646], 116 Stat. 134, approved May 13, 2002; Public Law 107–206 [2002 Supplemental Appropriations Act for Further Recovery From and Response to Terrorist Attacks on the United States; H.R. 4775], 116 Stat. 820, approved August 2, 2002; and by Public Law 108–7 [Consolidated Appropriations Resolution, 2003; H.J. Res. 2], 117 Stat. 11, approved February 20, 2003

AN ACT To stabilize prices of agricultural commodities.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Agricultural Act of 1949".

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Sec. 107F.[1] * * * [Repealed—1990]

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[1] Sec. 1161(a)(2) of Public Law 101–624 (Food, Agriculture, Conservation, and Trade Act of 1990; 104 Stat. 3520) repealed sec. 107F. Sec. 107F had provided for a program, applicable to

INTERNATIONAL EMERGENCY FOOD RESERVE

Sec. 111.[2] The President is encouraged to enter into negotiations with other nations to develop an international system of food reserves to provide for humanitarian food relief needs and to establish and maintain a food reserve, as a contribution of the United States toward the development of such a system, to be made available in the event of food emergencies in foreign countries. The reserves shall be known as the International Emergency Food Reserve.".

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Sec. 113.[3] * * * [Repealed—1996]

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Sec. 416.[4] (a)[5] In order to prevent the waste of commodities whether private stocks[6] or acquired through price-support operations by Commodity Credit Corporation before they can be disposed of in normal domestic channels without impairment of the price-support program or sold abroad at competitive world prices, the Commodity Credit Corporation is authorized, on such terms and under such regulations as the Secretary of Agriculture may deem in the public interest: (1) upon application, to make such commodities available to any Federal agency for use in making payment for commodities not produced in the United States; (2) to barter or exchange such commodities for strategic or other materials as authorized by law; (3) in the case of food commodities to donate such commodities to the Bureau of Indian Affairs and to such State, Federal, or private agency or agencies as may be designated by the proper State or Federal authority and approved by the Secretary, for use in the United States in nonprofit school-lunch programs, in nonprofit summer camps for children,[7] in the

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any of the 1986 through 1990 crops of wheat or feed grains, to provide incentives for the export of wheat and feed grains from private stocks.

[2] 7 U.S.C. 1445f. Sec. 1102 of the Food and Agriculture Act of 1977 (Public Law 95–113; 91 Stat. 953) added sec. 111.

[3] Formerly at 7 U.S.C. 1445h. Sec. 113, relating to supplemental set-aside and acreage limitation authority, was repealed by sec. 171(b)(2)(F) of Public Law 104–127 (110 Stat. 938).

[4] 7 U.S.C. 1431. Sec. 302 of Public Law 83–480 (68 Stat. 458) comprehensively amended and restated sec. 416.

Sec. 703 of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3349), provided the following:

"SEC. 703. ASSISTANCE FOR PRIVATE VOLUNTARY ORGANIZATIONS.

"The President is encouraged to use funds made available under section 109 of Public Law 102–229 (105 Stat. 1708), and funds made available under chapter 11 of part I of the Foreign Assistance Act of 1961, to assist private voluntary organizations and cooperatives in carrying out food assistance programs for the independent states of the former Soviet Union under—

"(1) section 1110 of the Food Security Act of 1985 (7 U.S.C. 1736o);

"(2) section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431); or

"(3) title II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1721 et seq.).".

[5] Sec. 502 of Public Law 98–258 (98 Stat. 137) inserted the subsec. designation "(a)" and added new subsecs. (b) and (c).

See also sec. 513 of Public Law 98–411 (Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1985) that stated the sense of the Congress that the newly enacted authority under sec. 416 of this Act should be used to help feed Guatemalan refugees in Mexico.

[6] Sec. 205(c) of Public Law 86–108 (73 Stat. 250) added the reference to private stocks.

[7] Sec. 1 of Public Law 85–483 (72 Stat. 286) added the reference to nonprofit summer camps for children.

assistance of needy persons, and in charitable institutions, including hospitals, to the extent that needy persons are served.[8] In the case of clause (3) the Secretary shall obtain such assurance as he deems necessary that the recipients thereof will not diminish their normal expenditures for food by reason of such donation. In order to facilitate the appropriate disposal of such commodities, the Secretary may from time to time estimate and announce the quantity of such commodities which he anticipates will become available for distribution under clause (3). The Commodity Credit Corporation may pay, with respect to commodities disposed of under this section, reprocessing, packaging, transporting, handling, and other charges accruing up to the time of their delivery to a Federal agency, or to the designated State or private agency. In addition, in the case of food commodities disposed of under this section, the Commodity Credit Corporation may pay the cost of processing such commodities into a form suitable for home or institutional use, such processing to be accomplished through private trade facilities to the greatest extent possible.[9] For the purpose of this section the terms "State" and "United States" include the District of Columbia and any Territory or possession of the United States. Dairy products acquired by the Commodity Credit Corporation through price support operations may, insofar as they can be used in the United States in nonprofit school lunch and other nonprofit child feeding programs, in the assistance of needy persons, and in charitable institutions, including hospitals and facilities, to the extent that they serve needy persons (including infants and children),[10] be donated for any such use prior to any other use or disposition.[11] Notwithstanding any other provision of law, such dairy products may be donated for distribution to needy households in the United States and to meet the needs of persons receiving nutrition assistance under the Older Americans Act of 1965.[12]

(b)[5, 13] (1) The Secretary, subject to the requirements of paragraph (10), may furnish eligible commodities for carrying out programs of assistance in developing countries and friendly countries under titles II and III[14] of the Agricultural Trade Development and Assistance Act of 1954 and under the Food for Progress Act of

[8] Sec. 3(c) of Public Law 89–808 (80 Stat. 1538) struck out clause (4) which previously appeared at this point. Clause (4) provided for the donation of excess food commodities to nonprofit voluntary agencies registered with the Committee on Voluntary Foreign Aid or other appropriate Federal agencies and intergovernmental organizations for use in assistance of needy persons and in nonprofit lunch programs outside the United States. The authority for such assistance was shifted to title II of Public Law 480.

[9] Sec. 212 of Public Law 84–540 (70 Stat. 203) added this sentence.

[10] Sec. 1771(b)(2) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3807) struck out "hospitals, to the extent that needy persons are served" and inserted in lieu thereof "hospitals and facilities, to the extent that they serve needy persons (including infants and children)".

[11] Public Law 91–233 (84 Stat. 199) added this sentence.

Another sentence, that previously appeared at this point, was repealed by sec. 1302(a)(2) of Public Law 95–113 (91 Stat. 979). This sentence, added by sec. 411(g) of Public Law 92–603 (86 Stat. 1492), prohibited persons eligible to receive supplementary income under title XVI of the Food Stamp Act of 1964 from participating in any program conducted under sec. 416.

[12] Sec. 1109(1) of the Food Security Act of 1985 (Public Law 99–198; 99 Stat. 1467), deleted at this point language authorizing donation of such dairy products for the assistance of needy persons outside the United States. This text was originally added by sec. 110 of the Omnibus Budget Reconciliation Act of 1982 (Public Law 97–253; 96 Stat. 766).

[13] Sec. 1109(2) of the Food Security Act of 1985 (Public Law 99–198; 99 Stat. 1467), comprehensively amended and restated subsec. b.

[14] Sec. 1514(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3662) struck out "title II" and inserted in lieu thereof "titles II and III".

1985, as approved by the Secretary, and for such purposes as are approved by the Secretary. To ensure that the furnishing of commodities under this subsection is coordinated with and complements other United States foreign assistance, assistance under this subsection shall be coordinated through the mechanism designated by the President to coordinate assistance under the Agricultural Trade Development and Assistance Act of 1954.

(2) As used in this subsection, the term 'eligible commodities' means—

(A) dairy products, wheat, rice, feed grains,[15] and oilseeds acquired by the Commodity Credit Corporation through price support operations, and the products thereof,[15] that the Secretary determines meet the criteria specified in subsection (a); and

(B) such other edible agricultural commodities as may be acquired by the Secretary or the Commodity Credit Corporation in the normal course of operations and that are available for disposition under this subsection, except that no such commodities may be acquired for the purpose of their use under this subsection.

(3)(A) Commodities may not be made available for disposition under this subsection in amounts that (i) will in any way reduce the amounts of commodities that traditionally are made available through donations to domestic feeding programs or agencies, or (ii) will prevent the Secretary from fulfilling any agreement entered into by the Secretary under a payment-in-kind program under this Act or other Acts administered by the Secretary.

(B)(i) The requirements of section 403(a)[16] of the Agricultural Trade Development and Assistance Act of 1954 shall apply with respect to commodities furnished under this subsection. Commodities may not be furnished for disposition to any country under this subsection except on determinations by the Secretary that—

(I) the receiving country has the absorptive capacity to use the commodities efficiently and effectively; and

(II) such disposition of the commodities will not interfere with usual marketings of the United States, nor disrupt world prices of agricultural commodities and normal patterns of commercial trade with developing countries.

(ii) The requirement for safeguarding usual marketings of the United States shall not be used to prevent the furnishing under this subsection of any eligible commodity for use in countries that—

(I) have not traditionally purchased the commodity from the United States; or

(II) do not have adequate financial resources to acquire the commodity from the United States through commercial sources or through concessional sales arrangements.

(C) The Secretary shall take reasonable precautions to ensure that—

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[15] Sec. 1 of Public Law 100–277 (102 Stat. 67) struck out "grains" and inserted in lieu thereof "wheat, rice, and feed grains"; and inserted ", and the products thereof," after "price support operations".

[16] Sec. 1514(2) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3662) struck out "402(b)" and inserted in lieu thereof "403(a)".

(i) commodities furnished under this subsection will not displace or interfere with sales that otherwise might be made; and

(ii) sales or barter under paragraph (7) will not unduly disrupt world prices of agricultural commodities nor normal patterns of commercial trade with friendly countries.

(D)[17] If eligible commodities are made available under this subsection to a friendly country, nonprofit and voluntary agencies and cooperatives shall also be eligible to receive commodities for food aid programs in the country.

(4) Agreements may be entered into under this subsection to provide eligible commodities in installments over an extended period of time. In agreements with recipients of eligible commodities under this subsection (including nonprofit and voluntary agencies or cooperatives), subject to the availability of commodities each fiscal year, the Secretary, on request, shall approve multiyear agreements to make agricultural commodities available for distribution or sale by the recipients if the agreements otherwise meet the requirements of this subsection.[18]

(5)(A) Section 406[19] of the Agricultural Trade Development and Assistance Act of 1954 shall apply to the commodities furnished under this subsection.

(B) The Commodity Credit Corporation may pay the processing and domestic handling costs incurred, as authorized under this subsection, in the form of eligible commodities, as defined in paragraph (2)(A), if the Secretary determines that such in-kind payment will not disrupt domestic markets.

(6) The cost of commodities furnished under this subsection, and expenses incurred under section 406[19] of the Agricultural Trade Development and Assistance Act of 1954 in connection with those commodities, shall be in addition to the level of assistance programmed under that Act and shall not be considered expenditures for international affairs and finance.

(7) Eligible commodities[20] furnished under this subsection may be sold or bartered only with the approval of the Secretary and solely as follows:

(A) Sales and barter that are incidental to the donation of the commodities or products.

(B) Sales and barter to finance the distribution, handling, and processing costs of the donated commodities or products in the importing country or in a country through which such commodities or products must be transshipped, or other activities in the importing country that are consistent with providing food assistance to needy people.

(C) Sales and barter of commodities and products furnished to intergovernmental agencies or organizations, insofar as they are consistent with normal programming procedures in the distribution of commodities by those agencies or organizations.

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[17] Sec. 2 of Public Law 100–277 (102 Stat. 67) added subpara. (D).

[18] Sec. 2 of Public Law 100–277 (102 Stat. 67) added the text to this point beginning with "In agreements with".

[19] Sec. 1514(3) and (4) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3662) struck out "203" and inserted "406".

[20] Sec. 1(a)(b)(2) of Public Law 100–277 (102 Stat. 67) struck out ", and products thereof," at this point.

(D)(i) Sales of commodities and products furnished to nonprofit and voluntary agencies, or cooperatives, for food assistance under agreements that provide for the use, by the agency or cooperative, of proceeds[21] generated from such sale of commodities or products for the purposes established in clause (ii) of this subparagraph.

(ii)[22] Proceeds[23] generated from partial or full sales or barter of commodities by a nonprofit and voluntary agency or cooperative shall be used—

(I) to transport, store, distribute, and otherwise enhance the effectiveness of the use of commodities and the products thereof donated under this section; and

(II) to implement income generating, community development, health, nutrition, cooperative development, agricultural programs, and other developmental activities.

In[24] addition, proceeds[25] generated in Poland may also be used by governmental and nongovernmental[26] agencies or cooperatives for eligible activities approved by the joint commission[27] established pursuant to section 2226 of the American Aid to Poland Act of 1988 and by the United States chief of diplomatic mission in Poland that would improve the quality of life of the Polish people and would strengthen and support the activities of governmental or[26] private, nongovernmental independent institutions in Poland. Activities eligible under the preceding sentence include—

(I) any project undertaken in Poland under the auspices of the Charitable Commission of the Polish Catholic Episcopate for the benefit of handicapped or orphaned children;

(II) any project for the reconstruction, renovation, or maintenance of the Research Center on Jewish History

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[21] Sec. 3201(a)(1) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 299) struck out "foreign currency" before "proceeds" in clauses (i) and (iii).

[22] Sec. 4(a) of Public Law 100–277 (102 Stat. 67) amended and restated clause (ii), which previously read as follows:

"(ii) Foreign currency proceeds generated from the sales of commodities and products under this subparagraph shall be used by nonprofit and voluntary agencies, or cooperatives, for activities carried out by the agency or cooperative that will enhance the effectiveness of transportation, distribution, and use of commodities and products donated under this subsection, including food for work programs and cooperative and agricultural projects.".

[23] Sec. 3201(a)(2)(A) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 299) struck out "Foreign currencies" and inserted in lieu thereof "Proceeds".

[24] Sec. 2225 of Public Law 100–418 added text from this point, through subclause (III).

[25] Sec. 3201(a)(2)(B) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 299) struck out "foreign currency".

[26] The paragraph titled "Poland Assistance" in sec. 562 of Public Law 101–513 (104 Stat. 2032) struck out "such" and inserted in lieu thereof "governmental and nongovernmental" following "may also be used by"; and inserted "governmental or" following "activities of".

[27] Sec. 2226 of Public Law 100–418 provided the following concerning this joint commission:

"(a) ESTABLISHMENT.—The joint commission referred to in sections 2223 and 2224 and in section 416(b)(7)(D)(ii) of the Agricultural Act of 1949 (as amended by section 2225 of this Act) shall be established under an agreement between the United States Government, the Government of Poland, and nongovernmental agencies (as defined in section 2223) operating in Poland.

"(b) MEMBERSHIP.—The joint commission shall be composed of—

"(1) appropriate representatives of the Government of Poland;

"(2) appropriate representatives of nongovernmental agencies which are parties to the agreement described in subsection (a); and

"(3) representatives from the United States diplomatic mission in Poland, which may include a representative of the Foreign Agricultural Service.".

and Culture of the Jagiellonian University of Krakow, Poland, established for the study of events related to the Holocaust in Poland;[28]

(III) any other project or activity which strengthens and supports private and independent sectors of the Polish economy, especially independent farming and agriculture; and

(IV) the Polish Catholic Episcopate's Rural Water Supply Foundation.

(iii) Except as otherwise provided in clause (v), such agreements, taken together for each fiscal year, shall provide for sales of commodities and products for proceeds[29] in amounts that are, in the aggregate, not less than 10[30] percent of the aggregate value of all commodities and products furnished, or the minimum tonnage required, whichever is greater,[30] for carrying out programs of assistance under this subsection in such fiscal year. The minimum allocation requirements of this clause apply with respect to commodities and products made available under this subsection for carrying out programs of assistance under titles II and III[31] of the Agricultural Trade Development and Assistance Act of 1954, and not with respect to commodities and products made available to carry out the Food for Progress Act of 1985.

(iv) Proceeds[32] generated from the sale of commodities or products under this subparagraph shall be expended within the country of origin within a reasonable length of time, as determined by the Secretary, except that the Secretary may permit the use of proceeds in a country other than the country of origin as necessary to expedite the transportation of commodities and products furnished under this subsection,[33] or to otherwise carry out the purposes of this subsection.[34]

(v) The provisions of clause (iii) of this subparagraph establishing minimum annual allocations for sales and use of proceeds shall not apply to the extent that there have not been

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[28] Sec. 576(c) of Public Law 103–306 (108 Stat. 1654) struck out "and" at the end of subclause (II), replaced a period at the end of subclause (III) with "; and", and added subclause (IV).

[29] Sec. 3201(a)(1) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 299) struck out "foreign currency" before "proceeds" in clauses (i) and (iii).

[30] Sec. 4(b) of Public Law 100–277 (102 Stat. 68) inserted "10 percent" in lieu of "5 percent" and added the text ", or the minimum tonnage required, whichever is greater,".

[31] Sec. 1514(5)(A) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3662) struck out "title II" and inserted in lieu thereof "titles II and III".

[32] Sec. 3201(a)(3)(A) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 299) struck out "Foreign currency proceeds" and inserted in lieu thereof "Proceeds".

[33] Sec. 3201(a)(3)(B) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 299) struck out "country of origin—(I) as necessary to expedite" and inserted in lieu thereof "country of origin as necessary to expedite". Sec. 3201(a)(3)(C) and (D) of that Act made other technical amendments and struck out subclause (II), which referred to "proceeds [that] are generated in a currency generally accepted in the other country.".

Previously, sec. 264(1)(A)(i) of Public Law 104–127 (110 Stat. 974) struck out "one year of acquisition of such currency, except that the Secretary may permit the use of such proceeds (I) in countries other than the country of origin as necessary to expedite the transportation of commodities and products furnished under this subsection, (II) after one year of acquisition as appropriate to achieve the purpose of clause (i), and (III) in a country other than the country of origin, if such proceeds are generated in a currency generally accepted in such other country." and inserted in lieu thereof sentence beginning at "a reasonable length of time".

[34] Sec. 105 of the 2002 Supplemental Appropriations Act for Further Recovery From and Response to Terrorist Attacks on the United States (Public Law 107–206; 116 Stat. 824) struck out "subsection." and inserted in lieu thereof "subsection, or to otherwise carry out the purposes of this subsection.".

sufficient requests for such sales and use of proceeds nor to the extent required under paragraph (3).

(E) Sales and barter to cover expenses incurred under paragraph (5)(a).

(F)[35] The provisions of sections 403(i) and 407(c) of the Agricultural Trade Development and Assistance Act of 1954 shall apply to donations, sales and barters of eligible commodities under this subsection.

The[36] Secretary may approve the use of proceeds or services realized from the sale or barter of a commodity furnished under this subsection by a nonprofit voluntary agency, cooperative, or intergovernmental agency or organization to meet administrative expenses incurred in connection with activities undertaken under this subsection.

(8)[37] ADMINISTRATIVE PROVISIONS.—

(A) EXPEDITED PROCEDURES.—To the maximum extent practicable, expedited procedures shall be used in the implementation of this subsection.

(B) ESTIMATE OF COMMODITIES.—The Secretary shall publish in the Federal Register, not later than October 31 of each fiscal year, an estimate of the types and quantities of commodities and products that will be available under this section for the fiscal year.

(C) FINALIZATION OF AGREEMENTS.—The Secretary is encouraged to finalize program agreements under this section not later than December 31 of each fiscal year.

(D) REGULATIONS.—The Secretary shall be responsible for regulations governing sales and barter, and the use of foreign currency proceeds, under paragraph (7) of this subsection that will provide reasonable safeguards to prevent the occurrence of abuses in the conduct of activities provided for in paragraph (7).

(9)(A) Each recipient of commodities and products approved for sale or barter under paragraph (7) shall report to the Secretary information with respect to the items required to be included in the Secretary's report pursuant to clause (i) through (iv) of subparagraph (B). Reports pursuant to this subparagraph shall be submitted in accordance with regulations of the Secretary. Such regulations shall require at least one report annually, to be submitted not later than December 31 following the end of the fiscal year in which the commodities and products are received; except that a report shall not be required with respect to fiscal year 1985.

(B) Not later than February 15, 1987, and annually thereafter, the Secretary shall report to the Congress on sales and barter, and

[35] Sec. 1514(5)(B) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3662) added subpara. (F). Sec. 333 of Public Law 102–237 (105 Stat. 1859) corrected the indentation of subpara. (F).

[36] Sec. 264(1)(A)(ii) of Public Law 104–127 (110 Stat. 974) struck out "No portion of the proceeds or services realized from sales or barter under this paragraph may be used to meet operating and overhead expenses, except as otherwise provided in subparagraph (C) and except for personnel and administrative costs incurred by local cooperatives." and inserted the new sentence following subpara. (F).

[37] Sec. 3201(b)(1) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 299) amended and restated para. (8), retaining former para. (B) as para. (D). Previously, sec. 264(1)(B) of Public Law 104–127 (110 Stat. 974) struck out subpara. (C) to para. (8). The subparagraph was originally added by sec. 5 of Public Law 100–277 (102 Stat. 68).

use of foreign currency proceeds, under paragraph (7) during the preceding fiscal year. Such report shall include information on—

(i) the quantity of commodities furnished for such sale or barter;

(ii) the amount of funds (including dollar equivalents for foreign currencies) and value of services generated from such sales and barter in such fiscal year;

(iii) how such funds and services were used;

(iv) the amount of foreign currency proceeds that were used under agreements under subparagraph (D) of paragraph (7) in such fiscal year, and the percentage of the quantity of all commodities and products furnished under this subsection in such fiscal year such use represented;

(v) the Secretary's best estimate of the amount of foreign currency proceeds that will be used, under agreements under subparagraph (D) of paragraph (7), in the then current fiscal year and the next following fiscal year (if all requests for such use are agreed to), and the percentage that such estimated use represents of the quantity of all commodities and products that the Secretary estimates will be furnished under this subsection in each such fiscal year;

(vi) the effectiveness of such sales, barter, and use during such fiscal year in facilitating the distribution of commodities and products under this subsection;

(vii) the extent to which sales, barter, or uses—

(I) displace or interfere with commercial sales of United States agricultural commodities and products that otherwise would be made,

(II) affect usual marketings of the United States,

(III) disrupt world prices of agricultural commodities or normal patterns of trade with friendly countries, or

(IV) discourage local production and marketing of agricultural commodities in the countries in which commodities and products are distributed under this subsection; and

(viii) the Secretary's recommendations, if any, for changes to improve the conduct of sales, barter, or use activities under paragraph 7.

(10)[38] SALE PROCEDURE.—In approving sales of commodities under this subsection, the Secretary shall follow the sale procedure described in section 403(l) of the Agricultural Trade Development and Assistance Act of 1954.

(11)[39] REQUIREMENTS.—

(A) IN GENERAL.—Not later than 270 days after the date of enactment of this subparagraph, the Secretary shall review and, as necessary, make changes in regulations and internal procedures designed to streamline, improve, and clarify this application, approval, and implementation processes pertaining to agreements under this section.

[38] Sec. 3009(b)(1) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 283) added new para. (10). Previously, sec. 264(1)(C) of Public Law 104–127 (110 Stat. 974) struck out former paras. (10), (11), and (12).

[39] Sec. 3209(b)(2) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 299) added para. (11).

(B) CONSIDERATIONS.—In conducting the review, the Secretary shall consider—

(i) revising procedures for submitting proposals;

(ii) developing criteria for program approval that separately address the objectives of the program;

(iii) pre-screening organizations and proposals to ensure that the minimum qualifications are met;

(iv) implementing e-government initiatives and otherwise improving the efficiency of the proposal submission and approval processes;

(v) upgrading information management systems;

(vi) improving commodity and transportation procurement processes; and

(vii) ensuring that evaluation and monitoring methods are sufficient.

(C) CONSULTATIONS.—Not later than 1 year after the date of enactment of this subparagraph, the Secretary shall consult with the Committee on Agriculture and the Committee on International Relations, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on changes made in regulations and procedures under this paragraph.

(c)[40] * * * [Repealed—1996]

(d)[41] * * * [Repealed—1990]

* * * * * * *

[40] Sec. 264(2) of Public Law 104–127 (110 Stat. 974) struck out subsec. (c), which authorized the Commodity Credit Corporation, under the Secretary of Agriculture, to carry out a two-year pilot program under which the Corporation shall barter or exchange accumulated dairy products for processed fluid milk. Subsec. (c) was originally added by sec. 502 of Public Law 98–258 (98 Stat. 137).

[41] Sec. 1575 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3702) struck out subsec. (d), which had provided for "a pilot program under which strategic or other materials that the United States does not produce domestically in amounts sufficient for its requirements and for which national stockpile or reserve goals established by law are unmet shall be acquired in exchange for commodities meeting the criteria specified in subsection (a).". Subsec. (d) was added by sec. 1129 of the Food Security Act of 1985 (Public Law 99–198; 99 Stat. 1486).

h. Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2005

Partial text of division A of Public Law 108–447 [H.R. 4818], 118 Stat. 2809 at 2811, approved December 8, 2004

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DIVISION A—AGRICULTURAL, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2005

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TITLE V

FOREIGN ASSISTANCE AND RELATED PROGRAMS

FOREIGN AGRICULTURAL SERVICE AND GENERAL SALES MANAGER

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Foreign Agricultural Service, including carrying out title VI of the Agricultural Act of 1954 (7 U.S.C. 1761–1768), market development activities abroad, and for enabling the Secretary to coordinate and integrate activities of the Department in connection with foreign agricultural work, including not to exceed $158,000 for representation allowances and for expenses pursuant to section 8 of the Act approved August 3, 1956 (7 U.S.C. 1766), $137,822,000: Provided, That the Service may utilize advances of funds, or reimburse this appropriation for expenditures made on behalf of Federal agencies, public and private organizations and institutions under agreements executed pursuant to the agricultural food production assistance programs (7 U.S.C. 1737) and the foreign assistance programs of the United States Agency for International Development.

PUBLIC LAW 480 TITLE I PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, of agreements under the Agricultural Trade Development and Assistance Act of 1954, and the Food for Progress Act of 1985, including the cost of modifying credit arrangements under said Acts, $94,198,000, to remain available until expended: Provided, That the Secretary of Agriculture may implement a commodity monetization program under existing provisions of the Food for Progress Act of 1985 to provide no less than $5,000,000 in local-

currency funding support for rural electrification development overseas.

In addition, for administrative expenses to carry out the credit program of title I, Public Law 83–480, and the Food for Progress Act of 1985, to the extent funds appropriated for Public Law 83–480 are utilized, $4,034,000, of which $1,097,000 may be transferred to and merged with the appropriation for "Foreign Agricultural Service, Salaries and Expenses", and of which $2,937,000 may be transferred to and merged with the appropriation for "Farm Service Agency, Salaries and Expenses".

PUBLIC LAW 480 TITLE I OCEAN FREIGHT DIFFERENTIAL GRANTS

(INCLUDING TRANSFER OF FUNDS)

For ocean freight differential costs for the shipment of agricultural commodities under title I of the Agricultural Trade Development and Assistance Act of 1954 and under the Food for Progress Act of 1985, $22,723,000, to remain available until expended: *Provided,* That funds made available for the cost of agreements under title I of the Agricultural Trade Development and Assistance Act of 1954 and for title I ocean freight differential may be used interchangeably between the two accounts with prior notice to the Committees on Appropriations of both Houses of Congress.

PUBLIC LAW 480 TITLE II GRANTS

For expenses during the current fiscal year, not otherwise recoverable, and unrecovered prior years' costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954, for commodities supplied in connection with dispositions abroad under title II of said Act, $1,182,501,000, to remain available until expended.

COMMODITY CREDIT CORPORATION EXPORT LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For administrative expenses to carry out the Commodity Credit Corporation's export guarantee program, GSM 102 and GSM 103, $4,423,000; to cover common overhead expenses as permitted by section 11 of the Commodity Credit Corporation Charter Act and in conformity with the Federal Credit Reform Act of 1990, of which $3,421,000 may be transferred to and merged with the appropriation for "Foreign Agricultural Service, Salaries and Expenses", and of which $1,002,000 may be transferred to and merged with the appropriation for "Farm Service Agency, Salaries and Expenses".

MCGOVERN-DOLE INTERNATIONAL FOOD FOR EDUCATION AND CHILD NUTRITION PROGRAM GRANTS

For necessary expenses to carry out the provisions of section 3107 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 1736o–1), $87,500,000, to remain available until expended: *Provided,* That the Commodity Credit Corporation is authorized to provide the services, facilities, and authorities for the purpose of

implementing such section, subject to reimbursement from amounts provided herein.

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TITLE VII—GENERAL PROVISIONS

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SEC. 706. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

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SEC. 723. In addition to amounts otherwise appropriated or made available by this Act, $2,500,000 is appropriated for the purpose of providing Bill Emerson and Mickey Leland Hunger Fellowships, through the Congressional Hunger Center.

SEC. 724. Notwithstanding section 412 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736f), any balances available to carry out title III of such Act as of the date of enactment of this Act, and any recoveries and reimbursements that become available to carry out title III of such Act, may be used to carry out title II of such Act.

* * * * * * *

SEC. 728. Of any shipments of commodities made pursuant to section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)), the Secretary of Agriculture shall, to the extent practicable, direct that tonnage equal in value to not more than $25,000,000 shall be made available to foreign countries to assist in mitigating the effects of the Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome on communities, including the provision of—

(1) agricultural commodities to—

(A) individuals with Human Immunodeficiency Virus or Acquired Immune Deficiency Syndrome in the communities; and

(B) households in the communities, particularly individuals caring for orphaned children; and

(2) agricultural commodities monetized to provide other assistance (including assistance under microcredit and microenterprise programs) to create or restore sustainable livelihoods among individuals in the communities, particularly individuals caring for orphaned children.

* * * * * * *

SEC. 745. None of the funds made available in fiscal year 2005 or preceding fiscal years for programs authorized under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.) in excess of $20,000,000 shall be used to reimburse the Commodity Credit Corporation for the release of eligible commodities under section 302(f)(2)(A) of the Bill Emerson Humanitarian Trust Act (7 U.S.C. 1736f–1): *Provided,* That any such funds made available to reimburse the Commodity Credit Corporation shall only be used pursuant to section 302(b)(2)(B)(i) of the Bill Emerson Humanitarian Trust Act.

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SEC. 769. Section 501 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1737) is amended—

(1) in subsection (b)(1), by inserting "and Doug Bereuter" after "John Ogonowski"; and

(2) in the heading, by inserting "**AND DOUG BEREUTER**" after "**JOHN OGONOWSKI**".

* * * * * * *

SEC. 772. None of the funds made available in this Act may be used to provide credits or credit guarantees for agricultural commodities provided for use in Iraq in violation of subsection (e) or (f) of section 202 of the Agricultural Trade Act of 1978 (7 U.S.C. 5622).

* * * * * * *

SEC. 782. Of the unobligated balances available to the Foreign Agricultural Service for the Public Law 480 Title I Program at the beginning of fiscal year 2005, $191,108,000 are hereby rescinded: *Provided*, That for purposes of determining the amount of funds available for transfer under section 412(b) of Public Law 83–480, as amended, the maximum amount of funds available for transfer shall be calculated based upon the total funds available prior to this rescission.

* * * * * * *

This Act may be cited as the "Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2005".

i. Food Security Act of 1985

Partial text of Public Law 99–198 [H.R. 2100], 99 Stat. 1354, approved December 23, 1985, as amended by Public Law 99–260 [Food Security Improvements Act of 1986, H.R. 1614], 100 Stat. 45, approved March 20, 1986; Public Law 100–277 [Agricultural Act of 1949, Amendment; S. 2151], 102 Stat. 67, approved April 4, 1988; Public Law 100–418 [Omnibus Trade and Competitiveness Act of 1988, H.R. 4848], 102 Stat. 1107, approved August 23, 1988; Public Law 100–435 [Hunger Prevention Act of 1988, S. 2560], 102 Stat 1645, approved September 19, 1988; Public Law 101–239 [Omnibus Budget Reconciliation Act of 1989, H.R. 3299], 103 Stat. 2106, approved December 19, 1989; Public Law 101–624 [Food, Agriculture, Conservation, and Trade Act of 1990; S. 2830], 104 Stat. 3359, approved November 28, 1990; Public Law 102–237 [Food, Agriculture, Conservation, and Trade Act Amendments of 1991; H.R. 3029], 105 Stat. 1818, approved December 13, 1991; Public Law 102–511 [FREEDOM Support Act, S. 2532], 106 Stat. 3320, approved October 24, 1992; Public Law 103–465 [Uruguay Round Agreements Act; H.R. 5110], 108 Stat. 4809, approved December 8, 1994; Public Law 104–127 [Federal Agriculture Improvement and Reform Act of 1996; H.R. 2854], 110 Stat. 888, approved April 4, 1996; Public Law 105–277 [Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999; title I of Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; H.R. 4328], 112 Stat. 2681, approved October 21, 1998; Public Law 107–171 [Farm Security and Rural Investment Act of 2002; H.R. 2646], 116 Stat. 134, approved May 13, 2002; and by Public Law 108–7 [Consolidated Appropriations Resolution, 2003; H.J. Res. 2], 117 Stat. 11, approved February 20, 2003

AN ACT To extend and revise agricultural price support and related programs, to provide for agricultural export, resource conservation, farm credit, and agricultural research and related programs, to continue food assistance to low-income persons, to ensure consumers an abundance of food and fiber at reasonable prices, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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TITLE IX—SUGAR

* * * * * * *

PREVENTION OF SUGAR LOAN FORFEITURES

SEC. 902.[1] * * *

[1] 7 U.S.C. 1446 note.

(c)[2] (1)[3] Beginning with the quota year for sugar imports which begins after the 1985/1986 quota year, the President shall not allocate any of the sugar import quota under such provisions to any country that is a net importer of sugar derived from sugarcane or sugar beets unless the appropriate officials of the country verify to the President that that country does not import for reexport to the United States any sugar produced in Cuba.

(2)[3] (A) Effective 90 days after the date of enactment of this paragraph and by August 1 of each year thereafter through 1995, the Secretary of Agriculture shall report to the President and Congress on the extent, if any, of sugar imports from Cuba by the countries described in paragraph (1).

(B) Commencing with the quota year for sugar imports after the 1990–1991 quota year, the President shall report to Congress by January 1, on—

(i) the identity of the countries that are net importers of sugar derived from sugarcane or sugar beets who have a quota for the current quota year;

(ii) the identity of such countries who have verified that they do not import for reexport to the United States any sugar produced in Cuba; and

(iii) the action, if any, taken by the President with respect to countries reported by the Secretary of Agriculture as net importers of sugar derived from sugarcane or sugar beets who imported the sugar from Cuba who reexported the sugar to the United States during the previous quota year.

* * * * * * *

TITLE XI—TRADE

Subtitle A—Public Law 480 and Use of Surplus Commodities in International Programs

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FACILITATION OF EXPORTS

Sec. 1106. It is the sense of Congress that the President should work with the People's Republic of China to facilitate the export of agricultural commodities to the People's Republic of China.

FARMER-TO-FARMER PROGRAM UNDER PUBLIC LAW 480

Sec. 1107.[4] (a) Notwithstanding any other provision of law, not less than one-tenth of 1 percent of the funds available for each of the fiscal years ending September 30, 1986 through September 30,

[2] Sec. 204(b)(4) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (Public Law 104–114; 110 Stat. 785) provides for the President to suspend this subsection, to the extent that this and other suspensions contribute to a stable foundation for a democratically elected government in Cuba. Sec. 204(d)(4) of that Act provides for the repeal of this subsection on the date the President determines that a democratically elected government in Cuba is in power, submits that determination to the appropriate congressional committees and commences the delivery and distribution of assistance to such a democratically elected government.

[3] Sec. 903 of Public Law 101–624 (104 Stat. 3488) added para. designation "(1)", and added para. (2).

[4] 7 U.S.C. 1736 note.

1990,[5] to carry out the Agricultural Trade Development and Assistance Act of 1954 shall be used to carry out paragraphs (1) and (2) of section 406(a) of that Act. Any such funds used to carry out paragraph (2) of section 406(a) shall not constitute more than one-fourth of the funds used as provided by the first sentence of this subsection, shall be used for activities in direct support of the farmer-to-farmer program under paragraph (1) of section 406(a), and shall be administered whenever possible in conjunction with programs under sections 296 through 300 of the Foreign Assistance Act of 1961.

(b) Not later than 120 days after the date of enactment of this Act, the Administrator of the Agency for International Development, in conjunction with the Secretary of Agriculture, shall submit to Congress a report indicating the manner in which the Agency intends to implement the provisions of paragraphs (1) and (2) of section 406(a) of the Agricultural Trade Development and Assistance Act of 1954 with the funds made available under subsection (a).

* * * * * * *

FOOD FOR PROGRESS

Sec. 1110.[6] (a) This section may be cited as the "Food for Progress Act of 1985".

(b)[7] DEFINITIONS.—In this section:

(1) COOPERATIVE.—The term "cooperative" has the meaning given the term in section 402 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1732).

(2) CORPORATION.—The term "Corporation" means the Commodity Credit Corporation.

(3) DEVELOPING COUNTRY.—The term "developing country" has the meaning given the term in section 402 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1732).

(4) ELIGIBLE COMMODITY.—The term "eligible commodity" means an agricultural commodity, or a product of an agricultural commodity, in inventories of the Corporation or acquired by the President or the Corporation for disposition through

[5] Sec. 6 of Public Law 100–277 (102 Stat. 69) substituted "through September 30, 1990" in lieu of ", and September 30, 1987".

[6] 7 U.S.C. 1736o. Sec. 4(g) of Executive Order No. 12752 of February 25, 1991 (56 F.R. 8255; February 27, 1991) delegated to the Secretary of Agriculture the functions conferred on the President in the Food for Progress Act, as amended.

Sec. 703 of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3349), provided the following:

"SEC. 703. ASSISTANCE FOR PRIVATE VOLUNTARY ORGANIZATIONS.

"The President is encouraged to use funds made available under section 109 of Public Law 102–229 (105 Stat. 1708), and funds made available under chapter 11 of part I of the Foreign Assistance Act of 1961, to assist private voluntary organizations and cooperatives in carrying out food assistance programs for the independent states of the former Soviet Union under—

"(1) section 1110 of the Food Security Act of 1985 (7 U.S.C. 1736o);

"(2) section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431); or

"(3) title II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1721 et seq.).".

[7] Sec. 3106(b)(1) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 291) amended and restated subsecs. (b) and (c).

commercial purchases under a program authorized under this section.

(5) ELIGIBLE ENTITY.—The term "eligible entity" means—

(A) the government of an emerging agricultural country;

(B) an intergovernmental organization;

(C) a private voluntary organization;

(D) a nonprofit agricultural organization or cooperative;

(E) a nongovernmental organization; and

(F) any other private entity.

(6) FOOD SECURITY.—The term "food security" means access by all people at all times to sufficient food and nutrition for a healthy and productive life.

(7) NONGOVERNMENTAL ORGANIZATION.—The term "nongovernmental organization" has the meaning given the term in section 402 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1732).

(8) PRIVATE VOLUNTARY ORGANIZATION.—The term "private voluntary organization" has the meaning given the term in section 402 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1732).

(9) PROGRAM.—The term "program" means a food assistance or development initiative proposed by an eligible entity and approved by the President under this section.

(c)[7] PROGRAM.—In order to use the food resources of the United States more effectively in support of developing countries, and countries that are emerging democracies that have made commitments to introduce or expand free enterprise elements in their agricultural economies through changes in commodity pricing, marketing, input availability, distribution, and private sector involvement, the President shall[8] enter into agreements with eligible entities to furnish to the countries eligible commodities made available under subsections (e) and (f).

(d) CONSIDERATION FOR AGREEMENTS.—In determining[9] whether to enter into an agreement[10] under this section, the President shall consider whether a potential recipient country is committed to carry out, or is carrying out, policies that promote economic freedom, private, domestic production of eligible commodities[11] for domestic consumption, and the creation and expansion of efficient domestic markets for the purchase and sale of such commodities. Such policies may provide for, among other things—

(1) access, on the part of farmers in the country, to private, competitive markets for their product;

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[8] Sec. 745(1) of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2005 (division A of Public Law 108–447; 117 Stat. 44) struck out "may" and inserted in lieu thereof "shall".

[9] Sec. 3106(c) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 292) struck out "(d) In determining" and inserted in lieu thereof "(d) CONSIDERATION FOR AGREEMENTS.—In determining".

[10] Sec. 1516(2) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3663) struck out "with countries" at this point.

[11] Sec. 3106(b)(2)(A) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 292) struck out "food" before "commodities". Sec. 3106(b)(2)(D) of that Act struck out "commodities" and inserted in lieu thereof "eligible commodities".

(2) market pricing of eligible commodities[12] to foster adequate private sector incentives to individual farmers to produce food on a regular basis for the country's domestic needs;

(3) establishment of market-determined foreign exchange rates;

(4) timely availability of production inputs (such as seed, fertilizer, or pesticides) to farmers;

(5) access to technologies appropriate to the level of agricultural development in the country; and

(6) construction of facilities and distribution systems necessary to handle perishable products.

(e)[13] FUNDING OF ELIGIBLE COMMODITIES.—(1) The Corporation[14] shall make available to the President such eligible commodities[15] determined to be available under section 401 of the Agricultural Trade Development and Assistance Act of 1954 as the President may request for purposes of furnishing eligible commodities[15] under this section.

(2) Notwithstanding any other provision of law, the Corporation[14] may use funds appropriated to carry out title I of the Agricultural Trade Development and Assistance Act of 1954 in carrying out this section with respect to eligible commodities[15] made available under that Act, and subsection (g) does not apply to eligible commodities furnished on a grant basis or on credit terms under that title.[16]

(3) The Corporation[14] may finance the sale and exportation of eligible commodities,[15] made available under the Agricultural Trade Development and Assistance Act of 1954, which are furnished[17] under this section. Payment[17] for eligible commodities[15] made available under that Act which are purchased on credit terms under this section shall be on the same basis as the terms provided in section 103[18] of that Act.

(4) In the case of eligible commodities[15] made available under the Agricultural Trade Development and Assistance Act of 1954 for purposes of this section, section 406[19] of that Act shall apply to eligible commodities[15] furnished on a grant basis[20] under this section

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[12] Sec. 3106(b)(2)(D) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 292) struck out "commodities" and inserted in lieu thereof "eligible commodities".

[13] Sec. 3106(d)(1) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 292) struck out "(e)" and inserted in lieu thereof "(e) FUNDING OF ELIGIBLE COMMODITIES.—".

[14] Sec. 3106(b)(2)(E) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 292) struck out "Commodity Credit Corporation" and inserted in lieu thereof "Corporation".

[15] Sec. 3106(b)(2)(D) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 292) struck out "commodities" and inserted in lieu thereof "eligible commodities".

[16] Sec. 3106(d)(2) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 292) inserted ", and subsection (g) does not apply to eligible commodities furnished on a grant basis or on credit terms under that title".

[17] Sec. 1516(3) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3663): (A) struck out "to a developing country"; and (B) struck out "by a developing country".

[18] Sec. 265(b) of Public Law 104–127 (110 Stat. 974) struck out "section 106" and inserted in lieu thereof "section 103".

[19] Sec. 227(2) of Public Law 104–127 (110 Stat. 962) struck out "203" and inserted in lieu thereof "406".

[20] Sec. 1516(4)(A) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3663) struck out "to a developing country" at these two points.

and sections 402, 403(a), 403(c), and 403(i)[21] of that Act shall apply to all eligible commodities[15] furnished[20] under this section.

(5)[22] NO EFFECT ON DOMESTIC PROGRAMS.—The President shall not make an eligible commodity available for disposition under this section in any amount that will reduce the amount of the eligible commodity that is traditionally made available through donations to domestic feeding programs or agencies, as determined by the President.

(f)[23] PROVISION OF ELIGIBLE COMMODITIES TO DEVELOPING COUNTRIES.—(1)[24] The Corporation[14] may provide for—

(A) grants, or

(B)[25] sales on credit terms,

of eligible commodities[15] made available under section 416(b) of the Agricultural Act of 1949 for use in carrying out this section.

(2)[26] In carrying out section 416(b) of the Agricultural Act of 1949, the Corporation[14] may purchase eligible commodities[15] for use under this section if—

(A) the Corporation[14] does not hold stocks of such eligible commodities;[15] or

(B) Corporation[14] stocks are insufficient to satisfy commitments made in agreements entered into under this section and such eligible commodities[15] are needed to fulfill such commitments.

(3)[26] No funds of the Corporation[14] in excess of $40,000,000[27] (exclusive of the cost of eligible commodities[15]) may be used for each of fiscal years 1996 through 2007[28] to carry out this section with respect to eligible commodities[15] made available under section 416(b) of the Agricultural Act of 1949 unless authorized in advance in appropriation Acts.

(4)[26] The cost of eligible commodities[15] made available under section 416(b) of the Agricultural Act of 1949 which are furnished under this section, and the expenses incurred in connection with furnishing such eligible commodities,[15] shall be in addition to the

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[21] Sec. 1516(4)(B) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3663) struck out "section 401(b)" and inserted in lieu thereof "sections 402, 403(a), 403(c), and 403(i)".

[22] Sec. 3106(d)(3) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 292) added para. (5).

[23] Sec. 3106(e)(1) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 293) struck out "(f)" and inserted in lieu thereof "(f) PROVISION OF ELIGIBLE COMMODITIES TO DEVELOPING COUNTRIES.—".

[24] Sec. 701(2) of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3348) restated subsec. (f)(1).

[25] Sec. 227(3)(A) of Public Law 104–127 (110 Stat. 962) struck out "in the case of the independent states of the former Soviet Union," before "sales".

[26] Sec. 227(3) of Public Law 104–127 (110 Stat. 962) struck out para. (2), and redesignated paras. (3) through (5) as (2) through (4). Para. (2) had read as follows:

"(2) Not less than 75,000 metric tons shall be made available pursuant to section 416(b)(10)(C) of the Agricultural Act of 1949 to carry out this section unless the President determines there are an insufficient number of eligible recipients.".

[27] Sec. 3106(e)(2) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 293) struck out "$30,000,000 (or, in the case of fiscal year 1999, $35,000,000)" and inserted in lieu thereof "$40,000,000". Previously, sec. 1125(1) of Public Law 105–277 (112 Stat. 2681–46) added "(or, in the case of fiscal year 1999, $35,000,000)" after "$30,000,000".

[28] Sec. 3106(a) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 291) struck out "2002" and inserted in lieu thereof "2007". Previously, sec. 227(3)(C) of Public Law 104–127 (110 Stat. 962) inserted "for each of fiscal years 1996 through 2002" after "may be used".

level of assistance programmed under the Agricultural Trade Development and Assistance Act of 1954 and may not be considered expenditures for international affairs and finance.

(5)[29] SALE PROCEDURE.—In making sales of eligible commodities under this section, the Secretary shall follow the sale procedure described in section 403(1) of the Agricultural Trade Development and Assistance Act of 1954.

(g)[30] MINIMUM TONNAGE.—Subject to subsection (f)(3), not less than 400,000 metric tons of eligible commodities shall[31] be provided under this section for the program for each of fiscal years 2002 through 2007.

(h)[32] PROHIBITION ON RESALE OR TRANSSHIPMENT OF ELIGIBLE COMMODITIES.—An agreement entered into under this section shall prohibit the resale or transshipment of the eligible commodities[33] provided under the agreement to other countries.

(i)[34] DISPLACEMENT OF UNITED STATES COMMERCIAL SALES.—In entering into agreements under this section, the President shall take reasonable steps to avoid displacement of any sales of United States commodities that would otherwise be made to such countries.

(j)[35] MULTICOUNTRY OR MULTIYEAR BASIS.—

(1) In general.—In carrying out this section, the President may,[36] on request and subject to the availability of eligible commodities,[33] is encouraged to approve[37] agreements that provide for eligible commodities[33] to be made available for distribution or sale by the recipient[38] on a multicountry or multiyear[39] basis if the agreements otherwise meet the requirements of this section.

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[29] Sec. 3009(b)(2) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 284) added para. (5).

[30] Sec. 3106(f) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 293) amended and restated subsec. (g), which had read as follows:

"(g) Not more than 500,000 metric tons of commodities may be furnished under this section in each of the fiscal years 1986 through 2002.".

Previously, sec. 1516(6) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3663) struck out "1990" and inserted in lieu thereof "1995". Sec. 227(4) of Public Law 104–127 (110 Stat. 962) struck out "1995" and inserted in lieu thereof "2002".

[31] Sec. 745(1) of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2005 (division A of Public Law 108–447; 117 Stat. 44) struck out "may" and inserted in lieu thereof "shall".

[32] Sec. 3106(g) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 293) struck out "(h) An agreement" and inserted in lieu thereof "(h) PROHIBITION ON RESALE OR TRANSSHIPMENT OF ELIGIBLE COMMODITIES.—An agreement".

[33] Sec. 3106(b)(2)(D) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 292) struck out "commodities" and inserted in lieu thereof "eligible commodities".

[34] Sec. 3106(h) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 293) struck out "(i) In entering" and inserted in lieu thereof "(i) DISPLACEMENT OF UNITED STATES COMMERCIAL SALES.—In entering".

[35] Sec. 3106(i)(1) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 293) struck out "(j) In carrying out this section, the President may,", and inserted in lieu thereof "(j) MULTICOUNTRY OR MULTIYEAR BASIS.—" and through ", the President" in subpara. (1). Previously, sec. 1572(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3702) struck subsec. (j), which had been amended by that same Act at sec. 1516(7); and redesignated subsec. (k) as (j). Subsec. (j), as redesignated, was originally added by sec. 4303 of Public Law 100–418.

[36] Sec. 227(5) of Public Law 104–127 (110 Stat. 962) struck out "shall" and inserted in lieu thereof "may".

[37] Sec. 3106(i)(2) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 293) struck out "approve" and inserted in lieu thereof "is encouraged to approve".

[38] Sec. 1516(8) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3663) struck out "recipient countries" and inserted in lieu thereof "the recipient".

[39] Sec. 3106(i)(3) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 293) struck out "multiyear" and inserted in lieu thereof "multicountry or multiyear".

(2)[40] DEADLINE FOR PROGRAM ANNOUNCEMENTS.—Before the beginning of any fiscal year, the President shall, to the maximum extent practicable—

(A) make all determinations concerning program agreements and resource requests for programs under this section; and

(B) announce those determinations.

(3)[40] REPORT.—Not later than December 1 of each fiscal year, the President shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a list of programs, countries, and eligible commodities, and the total amount of funds for transportation and administrative costs, approved to date for the fiscal year under this section.

(k)[41] EFFECTIVE AND TERMINATION DATES.—This section shall be effective during the period beginning October 1, 1985, and ending December 31, 2007.[42]

(l)[43] ADMINISTRATIVE EXPENSES.—(1) To enhance the development of private sector agriculture in countries receiving assistance under this section,[44] the President may, in each of the fiscal years 1996 through 2007,[45] use in addition to any amounts or eligible commodities[33] otherwise made available under this section[44] for such activities, not to exceed $15,000,000[46] (or, in the case of fiscal year 1999, $12,000,000)[47] of Corporation[14] funds (or eligible commodities[33] of an equal value owned by the Corporation), to provide assistance in the administration, sale, and monitoring of food assistance programs, and to provide technical assistance for monetization programs,[48] to strengthen private sector agriculture in recipient countries.

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[40] Sec. 3106(i)(4) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 293) added paras. (2) and (3).

[41] Sec. 3106(j) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 294) struck out "(k) This section" and inserted in lieu thereof "(k) EFFECTIVE AND TERMINATION DATES.—This section". Previously, sec. 335(3) of Public Law 102–237 (105 Stat. 1859) redesignated subsecs. (l) and (m) as (k) and (l), respectively.

[42] Sec. 3106(a) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 291) struck out "2002" and inserted in lieu thereof "2007". Previously, sec. 1516(9) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3663) struck out "1990" and inserted in lieu thereof "December 31, 1995"; and sec. 335(1) of Public Law 102–237 (105 Stat. 1859) struck out reference to "September 30,". Subsequently, sec. 227(6) of Public Law 104–127 (110 Stat. 962) struck out "1995" and inserted in lieu thereof "2002".

[43] Sec. 3106(k)(1) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 294) struck out "(l)" and inserted in lieu thereof "(l) ADMINISTRATIVE EXPENSES.—". Previously, sec. 1516(10) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3663) added subsec. (m). Sec. 335(3) of Public Law 102–237 (105 Stat. 1859) redesignated this subsec. as (l).

[44] Sec. 335(2) of Public Law 102–237 (105 Stat. 1859) struck out "this Act" and inserted in lieu thereof "this section".

[45] Sec. 3106(a) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 291) struck out "2002" and inserted in lieu thereof "2007". Previously, sec. 227(7)(A) of Public Law 104–127 (110 Stat. 962) struck out "1991 through 1995" and inserted in lieu thereof "1996 through 2002".

[46] Sec. 3106(k)(2) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 294) struck out "$10,000,000" and inserted in lieu thereof "$15,000,000".

[47] Sec. 1125 of Public Law 105–277 (112 Stat. 2681–46) added "(or, in the case of fiscal year 1999, $12,000,000)".

[48] Sec. 227(7)(B) of Public Law 104–127 (110 Stat. 963) inserted ", and to provide technical assistance for monetization programs," after monitoring of food assistance programs".

(2) To carry out this subsection, the President may provide eligible commodities[49] under agreements entered into under this Act in a manner that uses the commodity transaction as a means of developing in the recipient countries a competitive private sector that can provide for the importation, transportation, storage, marketing and distribution of such commodities.

(3) The President may use the assistance provided under this subsection and proceeds[50] derived from the sale of eligible commodities[49] under paragraph (2) to design, monitor, and administer activities undertaken with such assistance, for the purpose of strengthening or creating the capacity of recipient country private enterprises to undertake commercial transactions, with the overall goal of increasing potential markets for United States agricultural eligible commodities.[49]

(4)[51] HUMANITARIAN OR DEVELOPMENT PURPOSES.—The Secretary may authorize the use of proceeds to pay the costs incurred by an eligible entity under this section for—

(A)(i) programs targeted at hunger and malnutrition; or

(ii) development programs involving food security;

(B) transportation, storage, and distribution of eligible commodities provided under this section; and

(C) administration, sales, monitoring, and technical assistance.

(m)[52] PRESIDENTIAL APPROVAL.—In carrying out this section,[53] the President shall approve, as determined appropriate by the President, agreements with agricultural trade organizations, intergovernmental organizations, private voluntary organizations and cooperatives[54] that provide for—

(1) the sale of eligible commodities,[49] including the marketing of eligible commodities[55] through the private sector; and

(2) the use[56] of the proceeds generated in the humanitarian and development programs of such agricultural trade organizations, intergovernmental organizations, private voluntary organizations and cooperatives.[54]

(n)[57] PROGRAM MANAGEMENT.—

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[49] Sec. 3106(b)(2)(B) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 292) struck out "agricultural" before "commodities". Sec. 3106(b)(2)(D) of that Act struck out "commodities" and inserted in lieu thereof "eligible commodities".

[50] Sec. 3106(k)(3) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 294) struck out "local currencies" and inserted in lieu thereof "proceeds".

[51] Sec. 3106(k)(4) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 294) added para. (4).

[52] Sec. 3106(l) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 294) struck out "(m) In carrying" and inserted in lieu thereof "(m) PRESIDENTIAL APPROVAL.—In carrying". Previously, sec. 701(3) of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3348) added subsecs. (m) and (n) (the latter redesignated as subsec. (o); see notes).

[53] Sec. 227(8)(A) of Public Law 104–127 (110 Stat. 963) struck out "with respect to the independent states of the former Soviet Union" after "In carrying out this section".

[54] Sec. 227(8)(B) of Public Law 104–127 (110 Stat. 963) struck out "private voluntary organizations and cooperatives" and inserted in lieu thereof "agricultural trade organizations, intergovernmental organizations, private voluntary organizations and cooperatives".

[55] Sec. 3106(b)(2)(C) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 292) struck out "these" before "commodities". Sec. 3106(b)(2)(D) of that Act struck out "commodities" and inserted in lieu thereof "eligible commodities".

[56] Sec. 227(8)(C) of Public Law 104–127 (110 Stat. 963) struck out "in the independent states" after "the use".

[57] Sec. 3106(m) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 294) amended and restated subsec. (n). Previously, sec. 1125(3) and (4) of Public Law

(1) IN GENERAL.—The President shall ensure, to the maximum extent practicable, that each eligible entity participating in 1 or more programs under this section—

(A) uses eligible commodities made available under this section—

(i) in an effective manner;

(ii) in the areas of greatest need; and

(iii) in a manner that promotes the purposes of this section;

(B) in using eligible commodities, assesses and takes into account the needs of recipient countries and the target populations of the recipient countries;

(C) works with recipient countries, and indigenous institutions or groups in recipient countries, to design and carry out mutually acceptable programs authorized under this section; and

(D) monitors and reports on the distribution or sale of eligible commodities provided under this section using methods that, as determined by the President, facilitate accurate and timely reporting.

(2) REQUIREMENTS.—

(A) IN GENERAL.—Not later than 270 days after the date of enactment of this paragraph, the President shall review and, as necessary, make changes in regulations and internal procedures designed to streamline, improve, and clarify the application, approval, and implementation processes pertaining to agreements under this section.

(B) CONSIDERATIONS.—In conducting the review, the President shall consider—

(i) revising procedures for submitting proposals;

(ii) developing criteria for program approval that separately address the objectives of the program;

(iii) pre-screening organizations and proposals to ensure that the minimum qualifications are met;

(iv) implementing e-government initiatives and otherwise improving the efficiency of the proposal submission and approval processes;

(v) upgrading information management systems;

(vi) improving commodity and transportation procurement processes; and

(vii) ensuring that evaluation and monitoring methods are sufficient.

(C) CONSULTATIONS.—Not later than 1 year after the date of enactment of this paragraph, the President shall consult with the Committee on Agriculture, and the Committee on International Relations, of the House of Representatives and the Committee on Agriculture, Nutrition,

105–277 (112 Stat. 2681–46) redesignated former subsec. (n) as subsec. (o), and added a new subsec. (n). Subsequently, subsec. (o), which defined the term "independent states of the former Soviet Union" to mean "the independent states of the former Soviet Union as defined in section 102(8) of the Agricultural Trade Act of 1978 (7 U.S.C. 5602(8))", was struck out by sec. 3106(b)(2)(F) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 292).

and Forestry of the Senate on changes made in regulations and procedures.

(3) REPORTS.—Each eligible entity that enters into an agreement under this section shall submit to the President, at such time as the President may request, a report containing such information as the President may request relating to the use of eligible commodities and funds furnished to the eligible entity under this section.

(o)[58] PRIVATE VOLUNTARY ORGANIZATIONS AND OTHER PRIVATE ENTITIES.—In entering into agreements described in subsection (c), the President (acting through the Secretary)—

(1) shall enter into agreements with eligible entities described in subparagraphs (C) and (F) of subsection (b), and

(2) shall not discriminate against such eligible entities.

SALES FOR LOCAL CURRENCIES; PRIVATE ENTERPRISE PROMOTION

Sec. 1111. (a) * * *

(b) The Congress finds that additional steps should be taken to use the agricultural abundance produced by American farmers—

(1) to relieve hunger and promote long-term food security and economic development in developing countries in accordance with the development assistance policy established under section 102 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151–1); and

(2) to promote United States agricultural trade interests.

CHILD IMMUNIZATION

Sec. 1112. (a) * * *

(b) In the implementation of health programs undertaken in relation to assistance provided under the Agricultural Trade Development and Assistance Act of 1954, it shall be the goal of the organizations and agencies involved to provide as many additional immunizations of children as possible. Such increased immunization activities should be taken in coordination with similar efforts of other organizations and in keeping with any national plans for expanded programs of immunization. The President shall include information concerning such immunization activities in the annual reports required by section 634 of the Foreign Assistance Act of 1961, including a report on the estimated number of immunizations provided each year pursuant to this subsection.

SPECIAL ASSISTANT FOR AGRICULTURAL TRADE AND FOOD ASSISTANCE[59]

Sec. 1113.[60] (a) The President shall appoint a Special Assistant to the President for Agricultural Trade and Food Assistance[59] (hereinafter in this section referred to as the "Special Assistant").

[58] Sec. 745(2) of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2005 (division A of Public Law 108–447; 117 Stat. 44) added subsec. (o).

[59] The word "assistance" replaced the word "aid" as a result of Sec. 4(a) of Public Law 99–260 (100 Stat. 49).

[60] 7 U.S.C. 1736–1.

The President shall appoint the initial Special Assistant not later than May 1, 1986.[61]

(b) The Special Assistant shall serve in the Executive Office of the President.

(c) The Special Assistant shall—

(1) assist and advise the President in order to improve and enhance food assistance programs carried out in the United States and foreign countries;

(2) be available to receive suggestions and complaints concerning the implementation of United States food aid and agricultural export programs anywhere in the United States Government and provide prompt responses thereto, including expediting the program implementation in any instances in which there is unreasonable delay;

(3) make recommendations to the President on means to coordinate and streamline the manner in which food assistance programs are carried out by the Department of Agriculture and the Agency for International Development, in order to improve their overall effectiveness;

(4) make recommendations to the President on measures to be taken to increase use of United States agricultural commodities and the products thereof through food assistance programs;

(5) advise the President on agricultural trade;

(6) advise the President on the Food for Progress Program and expedite its implementation;

(7) serve as a member of the Development Coordination Committee and the Food Aid Subcommittee of such Committee;

(8) advise departments and agencies of the Federal Government on their policy guidelines on basic issues of food assistance policy to the extent necessary to assure the coordination of food assistance programs, consistent with law, and with the advice of such Subcommittee; and

(9) submit a report to the President and Congress each year through 1990 containing—

(A) a global analysis of world food needs and production; and[62]

(B) a detailed plan for using available export and food aid authorities to increase United States agricultural exports to those targeted countries.

(d)[63] Compensation for the Special Assistant shall be fixed by the President at an annual rate of basic pay of not less than the rate applicable to positions in level III of the Executive Schedule.

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[61] The last sentence of sec. 1113(a) was added by sec. 4(d) of Public Law 99–260 (100 Stat. 49).

[62] Sec. 1572(2) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3702): added "and" at the end of subpara. (A); struck out subpara. (B); and redesignated subpara. (C) as (B). Subpara. (B) had required "an identification of at least 15 target countries which are most likely to emerge as growth markets for agricultural commodities in the next 5 to 10 years".

[63] Subsec. (d) was amended by sec. 4(d) of Public Law 99–260 (100 Stat. 49), which substituted the provisions relating to the additional required functions of the Special Assistant for the provisions relating to compensation for the Special Assistant. Subsec. (d) previously read as follows:

"(d) The Special Assistant shall also—

"(1) solicit information and advice from private and governmental sources and recommend a plan to the President and Congress on measures that should be taken—

Continued

Subtitle B—Maintenance and Development of Export Markets

TRADE POLICY DECLARATION

Sec. 1121.[64] It is hereby declared to be the agricultural trade policy of the United States to—

(1) be the premier supplier of agricultural and food products to world markets and expand exports of high value products;

(2) support the principle of free trade and the promotion of fair trade in agricultural commodities and products;

(3) cooperate fully in all efforts to negotiate with foreign countries further reductions in tariff and nontariff barriers to trade, including sanitary and phytosanitary measures and trade-distorting subsidies;

(4) aggressively counter unfair foreign trade practices as a means of encouraging fairer trade;

(5) remove foreign policy constraints to maximize United States economic interests through agricultural trade; and

(6) provide for the consideration of United States agricultural trade interests in the design of national fiscal and monetary policy that may foster continued strength in the value of the dollar.

"(A) to promote the export of United States agricultural commodities and the products thereof; and

"(B) to expand export markets for United States agricultural commodities and the products thereof;

"(2) develop and recommend to the President national agricultural policies to foster and promote the United States agricultural industry and to maintain and increase strength of this vitally important sector of the United States economy; and

"(3)(A) appraise the various programs and activities of the Federal Government, as they affect the United States agricultural industry, for the purpose of determining the extent to which such programs and activities are contributing or not contributing to such industry; and

"(B) make recommendations to the President and Congress with respect to the effectiveness of such programs and activities in contributing to such industry.".

The current rate of compensation at level III of the Executive Schedule is $149,200 per annum (Executive Order 13368; 70 F.R. 1147; December 30, 2004).

[64] 7 U.S.C. 1736p. Sec. 267 of Public Law 104–127 (110 Stat. 974) struck out subsec. (a), struck out subsec. designation "(b)", struck out paras. (1) through (4) in former subsec. (b), and inserted new paras. (1) through (4).

Subsec. (a) and paras. (1) through (4) of former subsec. (b) read as follows:

"(a) Congress finds that—

"(1) the volume and value of United States agricultural exports have significantly declined in recent years as a result of unfair foreign competition and the high value of the dollar;

"(2) this decline has been exacerbated by the lack of uniform and coherent objectives in United States agricultural trade policy and the absence of direction and coordination in trade policy formulation;

"(3) agricultural interests have been under-represented in councils of government responsible for determining economic policy that has contributed to a strengthening of the United States dollar;

"(4) foreign policy objectives of the United States have been introduced into the trade policy process in a manner injurious to the goal of maximizing United States economic interests through trade; and

"(5) the achievement of that goal is in the best interests of the United States.

"(b) It is hereby declared to be the agricultural trade policy of the United States to—

"(1) provide through all means possible agricultural commodities and their products for export at competitive prices, with full assurance of quality and reliability of supply;

"(2) support the principle of free trade and the promotion of fairer trade in agricultural commodities and their products;

"(3) cooperate fully in all efforts to negotiate with foreign countries reductions in current barriers to fair trade;

"(4) counter aggressively unfair foreign trade practices using all available means, including export restitution, export bonus programs, and, if necessary, restrictions on United States imports of foreign agricultural commodities and their products, as a means to encourage fairer trade;".

[65] Formerly at 7 U.S.C. 1736q. Sec. 268 of Public Law 104–127 (110 Stat. 975) repealed sec. 1122, which had stated the sense of the Congress regarding trade liberalization.

Sec. 1122.[65] * * * [Repealed—1996]

SEC. 1123.[66] TRADE NEGOTIATIONS POLICY.

(a) FINDINGS.—Congress finds that—

(1) on a level playing field, United States producers are the most competitive suppliers of agricultural products in the world;

(2) exports of United States agricultural products accounted for $54,000,000,000 in 1995, contributing a net $24,000,000,000 to the merchandise trade balance of the United States and supporting approximately 1,000,000 jobs;

(3) increased agricultural exports are critical to the future of the farm, rural, and overall United States economy, but the opportunities for increased agricultural exports are limited by the unfair subsidies of the competitors of the United States, and a variety of tariff and nontariff barriers to highly competitive United States agricultural products;

(4) international negotiations can play a key role in breaking down barriers to United States agricultural exports;

(5) the Uruguay Round Agreement on Agriculture made significant progress in the attainment of increased market access opportunities for United States exports of agricultural products, for the first time—

(A) restraining foreign trade-distorting domestic support and export subsidy programs; and

(B) developing common rules for the application of sanitary and phytosanitary restrictions;

that should result in increased exports of United States agricultural products, jobs, and income growth in the United States;

(6) the Uruguay Round Agreement on Agriculture did not succeed in completely eliminating trade distorting domestic support and export subsidies by—

(A) allowing the European Union to continue unreasonable levels of spending on export subsidies; and

(B) failing to discipline monopolistic state trading entities, such as the Canadian Wheat Board, that use nontransparent and discriminatory pricing as a hidden de facto export subsidy;

(7) during the period 1996 through 2002, there will be several opportunities for the United States to negotiate fairer trade in agricultural products, including further negotiations under the World Trade Organization, and steps toward possible free trade agreements of the Americas and Asian-Pacific Economic Cooperation (APEC); and

(8) the United States should aggressively use these opportunities to achieve more open and fair opportunities for trade in agricultural products.

[66] 7 U.S.C. 1736r. Sec. 269 of Public Law 104–127 (110 Stat. 975) amended and restated sec. 1123. The section previously had authorized the Secretary of Agriculture to confer with representatives of other major agricultural producing countries and initiate and pursue agricultural trade consultations among major agricultural producing countries.

(b) GOALS OF THE UNITED STATES IN AGRICULTURAL TRADE NEGOTIATIONS.—The objectives of the United States with respect to future negotiations on agricultural trade include—

(1) increasing opportunities for United States exports of agricultural products by eliminating tariff and nontariff barriers to trade;

(2) leveling the playing field for United States producers of agricultural products by limiting per unit domestic production supports to levels that are no greater than those available in the United States;

(3) ending the practice of export dumping by eliminating all trade distorting export subsidies and disciplining state trading entities so that they do not (except in cases of bona fide food aid) sell in foreign markets at prices below domestic market prices or prices below their full costs of acquiring and delivering agricultural products to the foreign markets; and

(4) encouraging government policies that avoid price-depressing surpluses.

Sec. 1124.[67] * * * [Repealed—1990]

Sec. 1125.[68] * * * [Repealed—1990]

COOPERATOR MARKET DEVELOPMENT PROGRAM

Sec. 1126.[69] (a) It is the sense of Congress that the cooperator market development program of the Foreign Agricultural Service should be continued to help develop new markets and expand and maintain existing markets for United States agricultural commodities, using nonprofit agricultural trade organizations to the maximum extent practicable.

(b) The cooperator market development program shall be exempt from the requirements of Circular A 110 issued by the Office of Management and Budget.

(c) * * *

DEVELOPMENT AND EXPANSION OF MARKETS FOR UNITED STATES AGRICULTURAL COMMODITIES

Sec. 1127.[70] * * * [Repealed—1990]

POULTRY, BEEF AND PORK MEATS AND MEAT-FOOD PRODUCTS, EQUITABLE TREATMENT

Sec. 1128.[71] * * * [Repealed—1990]

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[67] Formerly at 7 U.S.C. 1736s. Sec. 1124, relating to targeted export assistance, was repealed by sec. 1572(3) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3702).

[68] Formerly at 7 U.S.C. 1736t. Sec. 1125, relating to short-term export credit, was repealed by sec. 1572(3) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3702).

[69] 7 U.S.C. 1736u.

[70] Sec. 1127 (7 U.S.C. 1736v) was repealed by sec. 1572(3) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3702).

[71] Sec. 1128 (7 U.S.C. 1736w) was repealed by sec. 1572(3) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3702).

PILOT BARTER PROGRAM FOR EXCHANGE OF AGRICULTURAL COMMODITIES FOR STRATEGIC MATERIALS

Sec. 1129.[72] * * *

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AGRICULTURAL ATTACHÉ REPORTS

Sec. 1132.[73] * * * [Repealed—1990]

CONTRACT SANCTITY AND PRODUCER EMBARGO PROTECTION

Sec. 1133.[74] (a) It is hereby declared to be the policy of the United States—

(1) to foster and encourage the export of agricultural commodities and the products of such commodities;

(2) not to restrict or limit the export of such commodities and products except under the most compelling circumstances;

(3) that any prohibition or limitation on the export of such commodities or products should be imposed only in time of a national emergency declared by the President under the Export Administration Act; and

(4) that contracts for the export of such commodities or products entered into before the imposition of any prohibition or limitation on the export of such commodities or products should not be abrogated.

STUDY TO REDUCE FOREIGN EXCHANGE RISK

Sec. 1134. (a) The Secretary of Agriculture shall conduct a study to determine the feasibility, practicability and cost of implementing a program to reduce the risk of foreign exchange fluctuations that is incurred by the purchasers of United States agricultural exports under United States export credit promotion programs. The purpose of the study is to examine whether the GSM–102 program and all other United States export credit initiatives relating to agricultural exports would be enhanced by the United States assuming the foreign exchange risk of the buyer which resulted from a rise in the value of the United States dollar compared to the trade-weighted index of the dollar. The index referred to is the "trade-weighted index" published by the Department of Commerce as a measurement of the relative buying power of the dollar compared to the currencies of nations trading with the United States. The elements of the program to be considered in this study would include the following:

(1) On the date a foreign buyer receives GSM–102 or other credit for purposes of purchasing United States agricultural products, the maximum loan repayment exchange rate would be tied to the trade-weighted value of the United States dollar on the same date.

[72] Sec. 1129 amended sec. 416 of the Agricultural Act of 1949.

[73] Sec. 1132 (7 U.S.C. 1736x) was repealed by sec. 1572(3) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3702).

[74] 7 U.S.C. 1736y.

(2) If in the future the United States dollar gains in strength (a higher trade-weighted index), the buyer would continue to repay the loan at the lower value fixed at the time the GSM–102 credit was extended.

(3) If the United States dollar falls in value during the term of the repayment period, the foreign buyer could calculate his repayment on the lower dollar value.

(b) Not later than six months after the enactment of this Act, the Secretary shall report the results of such study to the Committee on Agriculture of the House of Representatives and to the Committee on Agriculture, Nutrition, and Forestry of the Senate.

Subtitle C—Export Transportation of Agricultural Commodities

FINDINGS AND DECLARATIONS

Sec. 1141. (a) The Congress finds and declares—

(1) that a productive and healthy agricultural industry and a strong and active United States maritime industry are vitally important to the economic well-being and national security objectives of our Nation;

(2) that both industries must compete in international markets increasingly dominated by foreign trade barriers and the subsidization practices of foreign governments; and

(3) that increased agricultural exports and the utilization of United States merchant vessels contribute positively to the United States balance of trade and generate employment opportunities in the United States.

(b) It is therefore declared to be the purpose and policy of the Congress in this subtitle—

(1) to enable the Department of Agriculture to plan its export programs effectively, by clarifying the ocean transportation requirements applicable to such programs;

(2) to take immediate and positive steps to promote the growth of the cargo carrying capacity of the United States merchant marine;

(3) to expand international trade in United States agricultural commodities and products and to develop, maintain, and expand markets for United States agricultural exports;

(4) to improve the efficiency of administration of both the commodity purchasing and selling and the ocean transportation activities associated with export programs sponsored by the Department of Agriculture;

(5) to stimulate and promote both the agricultural and maritime industries of the United States and encourage cooperative efforts by both industries to address their common problems; and

(6) to provide in the Merchant Marine Act, 1936, for the appropriate disposition of these findings and purposes.

EXEMPTION OF CERTAIN AGRICULTURAL EXPORTS FROM THE REQUIREMENTS OF THE CARGO PREFERENCE LAWS

Sec. 1142.[75] * * *

EFFECT ON OTHER LAWS

Sec. 1143. This subtitle shall not be construed as modifying in any manner the provisions of section 4(b)(8) of the Food for Peace Act of 1966 (7 U.S.C. 1707a(b)(8)) or chapter 5 of title 5, United States Code.

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Subtitle E—Trade Practices

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ASSESSMENT OF EXPORT DISPLACEMENT

Sec. 1162.[76] * * * [Repealed—1990]

EXPORT SALES OF DAIRY PRODUCTS

Sec. 1163.[77] (a)[78] In each fiscal year, the Secretary of Agriculture may sell dairy products for export, at such prices as the Secretary determines appropriate, in a quantity and allocated as determined by the Secretary, consistent with the obligations undertaken by the United States set forth in the Uruguay Round Agreements, if the disposition of the commodities will not interfere with the usual marketings of the United States nor disrupt world prices of agricultural commodities and patterns of world trade.

(b) Such sales shall be made through the Commodity Credit Corporation under existing authority available to the Secretary or the Commodity Credit Corporation.

(c) Through September 30, 1995,[79] the Secretary shall report semi-annually to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the volume of sales made under this section.

Sec. 1164.[80] * * * [Repealed—1996]

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[75] Sec. 1142 amended the Merchant Marine Act, 1936 (46 U.S.C. 1101 *et seq.*).

[76] Sec. 1162 (7 U.S.C. 1736z) was repealed by sec. 1572(3) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3702).

[77] 7 U.S.C. 1731 note.

[78] Sec. 411(c) of Public Law 103–465 (108 Stat. 4963) amended and restated subsec. (a). It previously read as follows, as amended by sec. 111 of Public Law 101–624 (104 Stat. 3380), and by sec. 107(1) of Public Law 100–435 (102 Stat. 1651):

"(a) In each of the fiscal years 1986 through 1995, the Secretary of Agriculture shall sell for export, at such prices as the Secretary determines appropriate, not less than 150,000 metric tons of dairy products owned by the Commodity Credit Corporation, of which not less than 100,000 metric tons shall be butter and not less than 20,000 metric tons shall be cheese, if that disposition of such commodities will not interfere with the usual marketings of the United States nor disrupt world prices of agricultural commodities and normal patterns of commercial trade.".

[79] Sec. 111 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3380) struck out "1990" and inserted in lieu thereof "1995". Previously, sec. 107(2) of Public Law 100–435 (102 Stat. 1651) struck out "1988" and inserted in lieu thereof "1990".

[80] Sec. 270 of Public Law 104–127 (110 Stat. 976) repealed sec. 1164, relating to unfair trade practices.

THAI RICE

Sec. 1165.[81] * * * [Repealed—1990]

BARTER OF AGRICULTURAL COMMODITIES FOR STRATEGIC AND CRITICAL MATERIALS

Sec. 1167.[82] * * * [Repealed—1990]

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TITLE XIV—AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING

Subtitle A—General Provisions

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AGRICULTURAL INFORMATION EXCHANGE WITH IRELAND

Sec. 1420. (a) The Secretary of Agriculture shall undertake discussions with representatives of the Government of Ireland that may lead to an agreement that will provide for the development of a program between the United States and Ireland whereby there will be—

(1) a greater exchange of—

(A) agricultural scientific and educational information, techniques, and data;

(B) agricultural marketing information, techniques, and data; and

(C) agricultural producer, student, teacher, agribusiness (private and cooperative) personnel; and

(2) the fostering of joint investment ventures, cooperative research, and the expansion of United States trade with Ireland.

(b) The Secretary shall periodically report to the Chairman of the Committee on Agriculture of the House of Representatives and the Chairman of the Committee on Agriculture, Nutrition, and Forestry of the Senate to keep such Committees apprised of the progress and accomplishments, and such other information as the Secretary considers appropriate, with regard to the development of such program.

* * * * * * *

[81] Sec. 1165 (7 U.S.C. 1736 note) was repealed by sec. 1572(3) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3702).

[82] Sec. 1167 (7 U.S.C. 1736aa) was repealed by sec. 1572(3) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3702).

j. President's Emergency Food Assistance Act of 1984

Partial text of Public Law 98–473 [Continuing Appropriations Act, 1985; H.J. Res. 648], 98 Stat. 1837 at 2194, approved October 12, 1984

JOINT RESOLUTION Making continuing appropriations for the fiscal year 1985, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * * * *

TITLE III—PRESIDENT'S EMERGENCY FOOD ASSISTANCE ACT OF 1984

SHORT TITLE

Sec. 301.[1] This title may be cited as the "President's Emergency Food Assistance Act of 1984".

PART A—PRESIDENT'S EMERGENCY FUND

FINDINGS

Sec. 302.[2] The Congress finds that—

(1) acute food crises continue to cause loss of life, severe malnutrition, and general human suffering in many areas of the Third World, especially in sub-Saharan Africa;

(2) the United States continues to respond to these needs, as a reflection of its humanitarian concern for the people of the Third World, with emergency food and other necessary assistance to alleviate the suffering of those affected by severe food shortages;

(3) the timely provision of food and other necessary assistance to those in need is of paramount importance if the worst effects of such food crisis are to be mitigated; and

(4) the ability of the United States to provide food and other necessary assistance on a timely basis, and to ensure that such assistance is distributed to those in need, should be enhanced in order to better enable the United States to help those affected by severe food shortages.

ESTABLISHMENT OF THE FUND

Sec. 303.[3] (a) There is hereby established the President's Emergency Food Assistance Fund (hereafter in this title referred to as the "Fund"). Whenever the President determines it to be in the national interest of the United States, he is authorized to furnish, in

[1] 7 U.S.C. 1728 note.
[2] 7 U.S.C. 1728.
[3] 7 U.S.C. 1728a.

accordance with the provisions of this part, and on such terms and conditions as he may determine, assistance from the Fund for the purpose of alleviating the human suffering of peoples outside the United States caused by acute food shortages. Such assistance may be provided through such governments or other entities, private or public, including intergovernmental and multilateral organizations, as the President deems appropriate.

(b) Because the effects of severe food shortages will vary with the country or region, assistance to alleviate human suffering may include the provision of food assistance or such activities as the provision of seed, animal fodder, animal vaccines, and transportation (including inland transportation) and distribution services.

(c) There are authorized to be appropriated to the President $50,000,000 each for fiscal year 1985 and fiscal year 1986 to carry out the purposes of this title, to remain available until expended.

(d) The President may make loans, advances, and grants to, make and perform agreements and contracts with, or enter into transactions with, any individual, corporation, or other body of persons, government or government agency, whether within or without the United States, and international and intergovernmental organizations in furtherance of the purposes and within the limitations of this title.

REPORTS

Sec. 304.[4] Not later than December 31 of each year, the President shall submit a comprehensive report to the appropriate committees of Congress detailing all activities carried out under the authority of this title during the previous fiscal year.

PART B—FOOD FOR PEACE PROGRAM

TRANSPORTATION AND STORAGE

Sec. 305.[5] * * *

[4] 7 U.S.C. 1728b.

[5] Sec. 305 amended sec. 203 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1723).

k. Agricultural Exports

Partial text of Public Law 98–258 [Agricultural Programs Adjustment Act of 1984, H.R. 4072], 98 Stat. 130, approved April 10, 1984

AN ACT To make adjustments in the commodity programs for wheat, feed grains, upland cotton, and rice, to provide agricultural credit assistance, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Agricultural Programs Adjustment Act of 1984".

* * * * * * *

TITLE V—AGRICULTURAL EXPORTS

EXPORT ASSISTANCE

Sec. 501. It is the sense of Congress that the President should implement, as soon as practicable after the enactment of this Act, the actions, proposed by the Administration to complement the provisions of this Act, to further assist in the development, maintenance, and expansion of international markets for United States agricultural commodities and products thereof, as follows—

(1) for the fiscal year ending September 30, 1984, the President will—

(A) request congressional approval for the appropriation of funds in the amount of $150,000,000, in addition to the President's February 1984 request for a supplemental appropriation of $90,000,000, to carry out programs of assistance under titles I, II, and III of the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480);[1] and

(B) direct the Secretary of Agriculture to increase funding, over the current budgeted level, for the Export Credit Guarantee Program (GSM–102), carried out through the Commodity Credit Corporation, by not less than $500,000,000; and

(2) for the fiscal year ending September 30, 1985, the President will—

(A) request congressional approval for the appropriation of funds in the amount of at least $175,000,000, in addition to the current funding level contained in the President's budget for that year, to carry out programs of assistance under titles I, II, and III of Public Law 480;

[1] Second Supplemental Appropriations Act, 1984 (Public Law 98–396; 98 Stat. 1369 at 1371), provided:

"For an additional amount for 'Public Law 480', for financing the sale of agricultural commodities for convertible foreign currencies and for dollars on credit terms, pursuant to titles I and III of said Act, $175,000,000, of which $175,000,000 is hereby appropriated, to remain available until September 30, 1985.".

(B) direct the Secretary of Agriculture to increase funding, over the levels contained in the President's budget for that year or otherwise required by law, by not less than $1,100,000,000 for the Export Credit Guarantee Program (GSM–102) and by not less than $100,000,000 for direct export credit programs carried out through the Commodity Credit Corporation (GSM–5, GSM–201, and GSM–301); and

(C) request or use an additional amount of $50,000,000 (over the amounts specified in clauses (2)(A) and (2)(B)) either for increased funding for direct export credit programs carried out through the Commodity Credit Corporation or for additional assistance under Public Law 480, in such proportions as determined necessary and appropriate by the President.

EXPANDED AUTHORITY FOR THE USE ABROAD OF COMMODITY CREDIT CORPORATION STOCKS; ACQUISITION AND DONATION OF ULTRA-HIGH TEMPERATURE PROCESSED MILK

Sec. 502.[2] * * *

[2] Sec. 502 amended sec. 416 of the Agricultural Act of 1949 by adding new subsecs. (b) and (c).

l. Food and Agriculture Act of 1977

Partial text of Public Law 95–113 [S. 275], 91 Stat. 913, approved September 29, 1977

AN ACT To provide price and income protection for farmers and assure consumers of an abundance of food and fiber at reasonable prices, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, with the following table of contents, may be cited as the "Food and Agriculture Act of 1977".

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TITLE XII—PUBLIC LAW 480

NOTE.—Sections 1201–1208 of Title XII amend the Agricultural Trade Development and Assistance Act of 1954.

* * * * * * *

USE OF NONPRICE-SUPPORTED COMMODITIES UNDER PUBLIC LAW 480

Sec. 1209.[1] It is the sense of Congress that there be no discrimination between "price-supported" and "nonprice-supported" commodities in the programing of commodities under the Agricultural Trade Development and Assistance Act of 1954, as amended (Public Law 480).

SPECIAL TASK FORCE ON THE OPERATION OF PUBLIC LAW 480

Sec. 1210.[1] (a) It is the sense of Congress that attention be given to handling, storage, transportation, and administrative procedures in order to make improvements in the operation of the Agricultural Trade Development and Assistance Act of 1954, as amended (Public Law 480). Toward this objective, the Secretary of Agriculture shall appoint a special task force to review and report upon the administration of the Act.

(b) Such review shall include, but not be limited to, organizational arrangements for the administration of Public Law 480, or parts thereof, title I allocation criteria and procedures, quality control, including handling and storage through the first stage of distribution in the recipient country, and regulation of businesses and

[1] 7 U.S.C. 1691 note.

organizations to which services are contracted under Public Law 480.

(c) Not later than eighteen months following enactment of this Act, the Secretary of Agriculture shall transmit to Congress the report of such task force, along with administrative actions the Secretary has taken or intends to take as a result of such report, and recommendations, if any, for legislative changes.

m. Extension of Agricultural Trade Development and Assistance Act of 1954, as amended

Partial text of Public Law 85–931 [S. 3420], 72 Stat. 1790, approved September 6, 1958; as amended by Public Law 87–703 [H.R. 12391], 76 Stat. 605 at 611, approved September 27, 1962; and by Public Law 89–808 [Food for Peace Act of 1966, H.R. 14929], 80 Stat. 1526 at 1538, approved November 11, 1966

AN ACT To extend and amend the Agricultural Trade Development and Assistance Act of 1954.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, * * *

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NOTE.—Except for secs. 8 and 9, Public Law 85–931 consists of amendments to the Agricultural Trade Development and Assistance Act of 1954 and the Agricultural Act of 1956.

* * * * * * *

Sec. 8.[1] In carrying out the provisions of the Agricultural Trade Development and Assistance Act of 1954, as amended, extra long staple cotton shall be made available for sale pursuant to the provisions of title I of the Act in the same manner as upland cotton or any other surplus agricultural commodity is made available, and products manufactured entirely[2] from upland or long staple cotton shall be made available for sale pursuant to the provisions of title I of the Act as long as cotton is in surplus supply in the same manner as any other agricultural commodity or product is made available, and no discriminatory or other conditions shall be imposed which will prevent or tend to interfere with their sale or availability for sale under the Act.[3]

[1] 7 U.S.C. 1601 note.

[2] The word "entirely" and the words "in the same manner as any other agricultural commodity or product is made available" were added by sec. 3(d) of Public Law 89–808 (Food for Peace Act of 1966).

[3] Sec. 3(d) of Public Law 89–808 inserted a period in lieu of a colon and struck out a proviso, which read as follows: "*Provided,* That that portion of sales price of such products which is financed as a sale for foreign currency under title I of the Act shall be limited to the estimated portion of the sales price of such products attributable to the raw cotton content of such products".

Sec. 9.[4] Notwithstanding any other provision of law 6 those areas under the jurisdiction or administration of the United States are authorized to receive from the Department of Agriculture for distribution on the same basis as domestic distribution in any State, Territory, or possession of the United States, without exchange of funds, such surplus commodities as may be available pursuant to clause (2) of section 32 of the Act of August 24, 1935, as amended (7 U.S.C. 612c), and section 416 of the Agricultural Act of 1949, as amended (7 U.S.C. 1431).[5]

[4] 7 U.S.C. 1431b.

[5] Sec. 3(a) of Public Law 89–808 struck out the symbol "(1)" after the word "law"; inserted a period in lieu of a semicolon, and struck out the language after the semicolon, which read as follows: "and (2) the Commodity Credit Corporation is authorized to purchase products of oil seeds, and edible oils and fats and the products thereof in such form as may be needed for donation abroad as provided in the following sentence. Any such commodities or products if purchased shall be donated to nonprofit voluntary agencies registered with the Department of State, other appropriate agencies of the Federal Government or international organizations for use in the assistance of needy persons and in nonprofit school lunch programs outside the United States. Commodity Credit Corporation may incur such additional costs with respect to such oil as it is authorized to incur with respect to food commodities disposed of under section 416 of the Agricultural Act of 1949.".

n. Implementation of the Agricultural Trade Development and Assistance Act of 1954, as Amended, and the Food for Progress Act of 1985, as Amended

Executive Order 12752, February 25, 1991, 56 F.R. 8255, 7 U.S.C. 1691 note; amended by Executive Order 13044, April 18, 1997, 62 F.R. 19665

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Agricultural Trade Development and Assistance Act of 1954, as amended by Public Law 101–624 ("Agricultural Trade Development Act"), the Food for Progress Act of 1985, as amended by Public Law 101–624 ("Food for Progress Act"), and section 301 of title 3 of the United States Code, it is hereby ordered as follows:

Section 1. *Establishment of Programs.* There is hereby established:

(a) a program under title I of the Agricultural Trade Development Act to provide for the sale of agricultural commodities to developing countries and private entities.[1] Such program shall be implemented by the Secretary of Agriculture (hereafter referred to as the "Secretary").

(b) a program under title II of the Agricultural Trade Development Act to provide for the donation of agricultural commodities to foreign countries. Such program shall be implemented by the Administrator of the Agency for International Development (hereafter referred to as the "Administrator").

(c) a program under title III of the Agricultural Trade Development Act to provide for the donation of agricultural commodities to least developed countries. Such program shall be implemented by the Administrator.

Sec. 2. *International Negotiations and Accounting for Foreign Currencies.* (a) The Secretary with respect to title I, and the Administrator with respect to titles II and III of the Agricultural Trade Development Act, shall negotiate and execute agreements under the Agricultural Trade Development Act in accord with section 112b of title I of the United States Code and applicable regulations and procedures of the Department of State.

(b)(1) Foreign currencies that accrue to the United States under titles I and III of the Agricultural Trade Development Act may be used for the purposes set forth in section 014 and section 306 of that Act, respectively, in amounts consistent with applicable provisions of law and agreements. Such foreign currencies shall be subject to regulations of the Department of the Treasury governing the purchase, custody, deposit, transfer, and sale of foreign currencies received under the Agricultural Trade Development Act.

[1] Executive Order 13044 (April 18, 1997; 62 F.R. 19665) struck out "developing countries" and inserted in lieu thereof "developing countries and private entities".

(2) The Director of the Office of Management and Budget (hereafter referred to as the "Director") shall determine the amount of foreign currencies to be used for the purposes of section 104(c)(8) of the Agricultural Trade Development Act, and such purposes shall be carried out by the agencies with authority to pay the obligations abroad. The purposes of the remaining paragraphs of section 104(c) of that Act shall be carried out by the Department of Agriculture, utilizing where appropriate, the expertise of other agencies.

(3) The Secretary and Administrator shall transmit the reports required by the provisions of paragraph 5 of the Act of August 13, 1957 (71 Stat. 345; 7 U.S.C. 1704a), as related to the use of foreign currencies accruing under title I and title III of the Agricultural Trade Development Act, respectively.

Sec. 3. *Policy Coordination.* (a) To ensure policy coordination of assistance provided under the Agricultural Trade Development Act and the Food for Progress Act, there is hereby established a Food Assistance Policy Council (hereafter referred to as the "Council").

(b) The Council will include senior representatives of the Department of Agriculture, the Agency for International Development, the Department of State, and the Office of Management and Budget. Meetings of the Council shall be called by the Secretary or his designee at the request of any senior representative of the Council.

(c) The Council shall advise the President on appropriate policies under the Agricultural Trade Development Act and the Food for Progress Act and shall coordinate decisions on allocations and other policy issues, as well as prepare the report required by section 407(g)(1) of the Agricultural Trade Development Act.

(d) As necessary for effective coordination, the Council shall provide its advice to the President through the appropriate Cabinet-level body.

Sec. 4.[2] *Delegation of Responsibilities.* (a) The function conferred upon the President in section 403(j) of the Agricultural Trade Development Act is hereby delegated to the Secretary of State.

(b) The functions conferred upon the President by section 411 of the Agricultural Trade Development Act are hereby delegated to the Secretary, in consultation with the Council and the Department of the Treasury.

(c) The functions conferred upon the President by section 412(c) of the Agricultural Trade Development Act are hereby delegated to the Director, who shall consult with the Council on these functions.

(d) The functions conferred upon the President by title V of the Agricultural Trade Development Act are hereby delegated to the Administrator.

(e) The functions conferred upon the President by the Food for Progress Act, as amended, are hereby delegated to the Secretary.

Sec. 5. *Regulatory Review.* Policies, regulations, and analyses required by this Executive order shall be fully consistent with the

[2] Executive Order 13044 (April 18, 1997; 62 F.R. 19665) struck out paras. (a) and (c) in sec. 4, and redesignated the remaining subsections as subsecs. (a) through (e). Subsec. (a) formerly provided that the consultation required by section 401(a) of the Agricultural Trade Development Act was to be undertaken through the National Advisory Council. Subsec. (c) formerly provided that the function conferred upon the President by section 407(h) of the Agricultural Trade Development Act was to be delegated to the Administrator.

standards and criteria, analyses and procedures set forth in Executive Order Nos. 12291 and 12498.

Sec. 6. *Revocations.* Executive Order No. 12220 of June 27, 1980, and Executive Order No. 12583 of February 19, 1987, are revoked.

o. Assigning Foreign Affairs Functions and Implementing the Enterprise for the Americas Initiative and the Tropical Forest Conservation Act

Executive Order 13345, July 8, 2004, 69 F.R. 41901, 7 U.S.C. 1738 note

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Agricultural Trade Development and Assistance Act of 1954 (ATDA Act), as amended, the Foreign Assistance Act of 1961 (Foreign Assistance Act), as amended, and section 301 of title 3 of the United States Code, it is hereby ordered as follows:

Section 1. *Functions to be Performed by the Secretary of the Treasury.* (a) The Secretary of the Treasury is hereby designated to perform the functions of the President under the following provisions of law:

(1) sections 603(b), 604(a), and 611 of the ATDA Act (7 U.S.C. 1738b(b), 1738c(a), and 1738j); and

(2) sections 703, 704(a), 805(b), 806(a), 807(a), 808(a), and 812 of the Foreign Assistance Act 922 U.S.C. 2430b, 2430c(a), 2431c(b), 2431d(a), 2431e(a), 2431f(a), and 2431j).

(b) The Secretary of the Treasury shall:

(1)(A) make determinations under the provisions of sections 703(b) and 805(b) of the Foreign Assistance Act in accordance with any recommendations received from the Secretary of State with respect to subsections 703(a)(1)–703(a)(4) and the corresponding recommendations under section 805(a)(1) of that Act; and

(B) make determinations under the provisions of section 805(b) of the Foreign Assistance Act in accordance with any recommendations from the Administrator of the United States Agency for International Development (USAID) with respect to section 803(5)(B) of that Act;

(2) exercise the functions under the provisions listed in section 1(a)(1) of this order in consultation with the Secretary of State and with the National Advisory Council on International Monetary and Financial Policies (Council) established by Executive Order 11269 of February 14, 1966;

(3) consult, as appropriate, with the Secretary of State, the Administrator of USAID, the Council, the Secretary of Agriculture, the Director of the Office of Management and Budget, the Administrator of the Environmental Protection Agency, the Chairman of the Council on Environmental Quality, the Director of the Office of National Drug Control policy, and the Chairman of the Council of Economic Advisers in the performance of all other functions under the provisions listed in section 1(a) of this order.

Sec. 2. *Functions to be Performed by the Secretary of State.* (a) The Secretary of State is hereby designated to perform the functions of the President under sections 607 and 614 of the ATDA Act (7 U.S.C. 1738f and 1738m) and section 813(a) of the Foreign Assistance Act (22 U.S.C. 2431k).

(b) The Secretary of State shall consult, as appropriate, with the Secretary of the Treasury and the Administrator of USAID, in the performance of functions under the provisions listed in subsection 2(a) of this order.

(c) The Secretary of State shall consult, as appropriate, in the performance of functions under section 607 of the ATDA Act, with the Secretary of Agriculture, the Secretary of Commerce, the Administrator of the Environmental Protection Agency, the Chairman of the Council on Environmental Quality, and the heads of such other executive departments and agencies as the Secretary of State determines appropriate.

(d) The Secretary of State is hereby designated to receive advice or supplemental views on the President's behalf consistent with the following provisions of law:

(1) section 610(c)(1) of the ATDA Act (7 U.S.C. 8i(c)(1)); and

(2) section 813(b) of the Foreign Assistance Act 922 U.S.C. 2431k).

Sec. 3. *Recommendation by USAID.* The Administrator of USAID shall make recommendations with respect to 803(5)(B) of the Foreign Assistance Act (22 U.S.C. 2431a(5)(B)), in cooperation with the Secretary of Agriculture and the Secretary of State.

Sec. 4. *Government Appointees to the Enterprise for the Americas Board.* (a) Pursuant to section 610(b)(1)(A) of the ATDA Act (7 U.S.C. 1738i(b)(1)(A)) and section 811(b)(1)(A) and (b)(2) of the Foreign Assistance Act (22 U.S.C. 2431i(b)(1)(A) and (b)(2)), the following officers of employees of the United States are hereby designated to serve as representatives on the Enterprise for the Americas Board:

(i) the designee of the Secretary of State, who shall be the chairperson of the Board;

(ii) the designee of the Secretary of the Treasury;

(iii) two designees of the Secretary of Agriculture, one of whom shall be an officer or employee of the United States Forest Service International Programs Office with experience in international forestry matters, and the other shall be an officer of employee of the Foreign Agricultural Service;

(iv) the designee of the Secretary of the Interior;

(v) the designee of the Administrator of the Environmental Protection Agency;

(vi) the designee of the Administrator of USAID, who shall be the vice chairperson of the Board; and

(vii) the designee of the Chairman of the Council on Environmental Quality.

(b) The Board shall permit the following officers or employees of the United States to attend and observe a Board meeting:

(i) a designee of the Secretary of Commerce; and

(ii) a designee of the head of any executive department or agency, if the meeting will relate to matters relevant to the activities of such executive department or agency.

(c) An officer of the United States listed in subsections 4(a) and 4(b) shall make a designation for purposes of those subsections in writing submitted to the Secretary of State and shall change any such designation in the same manner. The authority to make such a designation may not be delegated.

(d) The Secretary of State may, after consultation with the officers of the United States listed in subsection 4(b) and the Attorney General, as appropriate, establish such procedures as may be necessary to provide for the governance and administration of the Board.

Sec. 5. *Guidance for the Performance of Functions.* In performing functions under this order, officers of the United States:

(a) shall ensure that all actions taken by them are consistent with the President's constitutional authority to (i) conduct the foreign affairs of the united States, including the commencement, conduct, and termination of negotiations with foreign countries and international organizations, (ii) withhold information the disclosure of which could impair the foreign relations, the national security, the deliberative processes of the Executive, or the performance of the Executive's constitutional duties, (iii) recommend for congressional consideration such measures as the President may judge necessary or expedient, and (iv) supervise the unitary executive branch;

(b) may further assign functions assigned by this order to officers of any department or agency within the executive branch to the extent permitted by law except as provided in subsection 4(c) of this order and such further assignment shall be published in the **Federal Register**; and

(c) shall consult the Attorney General as appropriate in implementing this section.

Sec. 6. *Revocation of Executive Orders.* The following Executive Orders are hereby revoked:

(a) Executive Order 12757 of March 19, 1991;

(b) Executive Order 12823 of December 3, 1992;

(c) Executive Order 13028 of December 3, 1996; and

(d) Executive Order 13131 of July 22, 1999.

Sec. 7. *Judicial Review.* This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by a party against the United States, its departments, agencies, entities, officers, employees or agents, or any other person.

2. Agricultural Trade

a. Agricultural Competitiveness and Trade Act of 1988

Partial text of Public Law 100–418 [Omnibus Trade and Competitiveness Act of 1988, H.R. 4848], 102 Stat 1107 at 1388, approved August 23, 1988, amended by Public Law 101–624 [Food, Agriculture, Conservation, and Trade Act of 1990; S. 2830], 104 Stat. 3359, approved November 28, 1990; and by Public Law 104–127 [Federal Agriculture Improvement and Reform Act of 1996; H.R. 2854], 110 Stat. 888, approved April 4, 1996

AN ACT To enhance the competitiveness of American industry, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * * * *

TITLE IV—AGRICULTURAL TRADE

SEC. 4001.[1] SHORT TITLE.

This title may be cited as the "Agricultural Competitiveness and Trade Act of 1988".

SUBTITLE A—FINDINGS, POLICY, AND PURPOSE

SEC. 4101.[2] FINDINGS.

Congress finds that—

(1) United States agricultural exports have declined by more than 36 percent since 1981, from $43,800,000,000 in 1981 to $27,900,000,000 in 1987;

(2) the United States share of the world market for agricultural commodities and products has dropped by 20 percent during the last 6 years;

(3) for the first time in 15 years, the United States incurred monthly agricultural trade deficits in 1986;

(4) the loss of $1,000,000,000 in United States agricultural exports causes the loss of 35,000 agricultural jobs and the loss of 60,000 nonagricultural jobs;

(5) the loss of agricultural exports threatens family farms and the economic well-being of rural communities in the United States;

(6) factors contributing to the loss of United States agricultural exports include changes in world agricultural markets such as—

(A) the addition of new exporting nations;

(B) innovations in agricultural technology;

[1] 7 U.S.C. 5201 note.
[2] 7 U.S.C. 5201.

(C) increased use of export subsidies designed to lower the price of commodities on the world market;

(D) the existence of barriers to agricultural trade;

(E) the slowdown in the growth of world food demand in the 1980's due to cyclical economic factors, including currency fluctuations and a debt-related slowdown in the economic growth of agricultural markets in certain developing countries; and

(F) the rapid buildup of surplus stocks as a consequence of favorable weather for agricultural production during the 1980's;

(7) increasing the volume and value of exports is important to the financial well-being of the farm sector in the United States and to increasing farm income in the United States;

(8) in order to increase agricultural exports and improve prices for farmers and ranchers in the United States, it is necessary that all agricultural export programs of the United States be used in an expeditious manner, including programs established under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.), the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), and section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431);

(9) greater use should be made by the Secretary of Agriculture of the authorities established under section 4 of the Food for Peace Act of 1966 (7 U.S.C. 1707a), the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.), section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431), and the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.) to provide intermediate credit financing and other assistance for the establishment of facilities in importing countries to—

(A) improve the handling, marketing, processing, storage, and distribution of imported agricultural commodities and products; and

(B) increase livestock production to enhance the demand for United States feed grains;

(10) food aid and export assistance programs in developing countries stimulate economic activity which causes incomes to rise, and, as incomes rise, diets improve and the demand for and ability to purchase food increases;

(11) private voluntary organizations and cooperatives are important and successful partners in our food aid and development programs; and

(12) in addition to meeting humanitarian needs, food aid used in sales and barter programs by private voluntary organizations and cooperatives—

(A) provides communities with health care, credit systems, and tools for development; and

(B) establishes the infrastructure that is essential to the expansion of markets for United States agricultural commodities and products.

SEC. 4102.[3] POLICY.

It is the policy of the United States—

(1) to provide, through all possible means, agricultural commodities and products for export at competitive prices, with full assurance of quality and reliability of supply;

(2) to support the principle of free trade and the promotion of fair trade in agricultural commodities and products;

(3) to support fully the negotiating objectives set forth in section 1101(b) of this Act to eliminate or reduce substantially constraints on fair and open trade in agricultural commodities and products;

(4) to use statutory authority to counter unfair foreign trade practices and to use all available means, including export promotion programs, and, if necessary, restrictions on United States imports of agricultural commodities and products, in order to encourage fair and open trade; and

(5) to provide for increased representation of United States agricultural trade interests in the formulation of national fiscal and monetary policy affecting trade.

SEC. 4103.[4] PURPOSE.

It is the purpose of this title—

(1) to increase the effectiveness of the Department of Agriculture in agricultural trade policy formulation and implementation and in assisting United States agricultural producers to participate in international agricultural trade, by strengthening the operations of the Department of Agriculture; and

(2) to improve the competitiveness of United States agricultural commodities and products in the world market.

SUBTITLE B—AGRICULTURAL TRADE INITIATIVES

PART 1—GENERAL PROVISIONS

SEC. 4201.[5] LONG-TERM AGRICULTURAL TRADE STRATEGY REPORTS. * * * [Repealed—1990]

SEC. 4202.[5] TECHNICAL ASSISTANCE IN TRADE NEGOTIATIONS * * * [Repealed—1990]

SEC. 4203.[6] JOINT DEVELOPMENT ASSISTANCE AGREEMENTS WITH CERTAIN TRADING PARTNERS.

(a) DEVELOPMENT OF PLAN.—With respect to any country that has a substantial positive trade balance with the United States, the Secretary of Agriculture, in consultation with the Secretary of State and (through the Secretary of State) representatives of such country, may develop an appropriate plan under which that country would purchase United States agricultural commodities or products for use in development activities in developing countries. In developing such plan, the Secretary of Agriculture shall take

[3] 7 U.S.C. 5202.
[4] 7 U.S.C. 5203.
[5] Sec. 1571 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3702) repealed secs. 4201, 4202, 4205, 4206, 4211, 4212, 4213, 4305, and 4311 (7 U.S.C. 5211, 5212, 5215, 5216, 5231, 5232, 5233, 1736t note, and 1691 note, respectively) of this Act.
[6] 7 U.S.C. 5213.

into consideration the agricultural economy of such country, the nature and extent of such country's programs to assist developing countries, and other relevant factors. The Secretary of Agriculture shall submit each such plan to the President as soon as practicable.

(b) AGREEMENT.—The President may enter into an agreement with any country that has a positive trade balance with the United States under which that country would purchase United States agricultural commodities or products for use in agreed-on development activities in developing countries.

SEC. 4204.[7] REORGANIZATION EVALUATION.

The Secretary of Agriculture shall evaluate the reorganization proposal recommended by the National Commission on Agricultural Trade and Export Policy and other proposals to improve management of international trade activities of the Department of Agriculture. To assist the Secretary in the evaluation, the Secretary shall appoint a private sector advisory committee of not less than 4 members, who shall be appointed from among individuals representing farm and commodity organizations, market development cooperators, and agribusiness. Not later than April 30, 1989, the Secretary shall report the findings of the evaluation to Congress, together with the views and recommendations of the private sector advisory committee.

SEC. 4205.[5] CONTRACTING AUTHORITY TO EXPAND AGRICULTURAL EXPORT MARKETS. * * * [Repealed—1990]

SEC. 4206.[5] ESTABLISHMENT OF TRADE ASSISTANCE OFFICE. * * * [Repealed—1990]

PART 2—FOREIGN AGRICULTURAL SERVICE

SEC. 4211.[5] PERSONNEL OF THE SERVICE. * * * [Repealed—1990]

SEC. 4212.[5] AGRICULTURAL ATTACHE EDUCATIONAL PROGRAM. * * * [Repealed—1990]

SEC. 4213.[5] PERSONNEL RESOURCE TIME. * * * [Repealed—1990]

SEC. 4214.[8] COOPERATOR ORGANIZATIONS.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the foreign market development cooperator program of the Service, and the activities of individual foreign market cooperator organizations, have been among the most successful and cost-effective means to expand United States agricultural exports. Congress affirms its support for the program and the activities of the cooperator organizations. The Administrator and the private sector should work together to ensure that the program, and the activities of cooperator organizations, are expanded in the future.

(b) COMMODITIES FOR COOPERATOR ORGANIZATIONS.—The Secretary of Agriculture may make available to cooperator organizations agricultural commodities owned by the Commodity Credit Corporation, for use by such cooperators in projects designed to expand markets for United States agricultural commodities and products.

(c) RELATION TO FUNDS.—Commodities made available to cooperator organizations under this section shall be in addition to, and

[7] 7 U.S.C. 5214.
[8] 7 U.S.C. 5234.

not in lieu of, funds appropriated for market development activities of such cooperator organizations.

(d) CONFLICTS OF INTEREST.—The Secretary shall take appropriate action to prevent conflicts of interest among cooperator organizations participating in the cooperator program.

(e) EVALUATION.—It is the sense of Congress that the Secretary should establish a consistent, objective means for the evaluation of cooperator programs.

SEC. 4215.[9] AUTHORIZATION OF ADDITIONAL APPROPRIATIONS.

There are authorized to be appropriated for the Service, in addition to any sums otherwise authorized to be appropriated by any provision of law other than this section, $20,000,000 for each of the fiscal years 1988, 1989, and 1990 for market development activities, including—

(1) expansion of the agricultural attache service;

(2) expansion of international trade policy activities of the Service;

(3) enhancement of the Service worldwide market information system;

(4) increasing the number of trade shows and exhibitions conducted by the Service and upgrading the quality of United States representation at trade shows and exhibitions; and

(5) developing markets for value-added beef, pork, and poultry products.

SUBTITLE C—EXISTING AGRICULTURAL TRADE PROGRAMS

SEC. 4301.[10] TRIGGERED MARKETING LOANS AND EXPORT ENHANCEMENT. * * * [Repealed—1996]

SEC. 4302.[11] PRICE SUPPORT PROGRAMS FOR SUNFLOWER SEEDS AND COTTONSEED.

(a) SUNFLOWER SEEDS.—If producers are permitted to repay loans for the 1990 crop of soybeans under section 201(i) of the Agricultural Act of 1949 (7 U.S.C. 1446(i)) at a level that is less than the full amount of the loan pursuant to section 4301 of this Act, the Secretary shall support the price of sunflower seeds through loans and purchases for the 1990 crop of sunflowers in accordance with section 201(l) of the Agricultural Act of 1949.

(b) COTTONSEED.—If a producer is permitted to repay a loan for the 1990 crop of soybeans under section 201(i) of the Agricultural Act of 1949 (7 U.S.C. 1446(i)) at a level that is less than the full amount of the loan pursuant to section 4301 of this Act, the Secretary shall support the price of the 1990 crop of cottonseed at such level as the Secretary determines will cause cottonseed to compete on equal terms with soybeans on the market. The Secretary shall carry out this subsection using the funds, facilities, and authorities of the Commodity Credit Corporation.

(c) DISCONTINUANCE.—If the marketing loan program for the 1990 crop of soybeans is discontinued under section 4301(b)(3) of

[9] 7 U.S.C. 5235.

[10] Formerly at 7 U.S.C. 1446 note. Sec. 263(b) of Public Law 104–127 (110 Stat. 974) repealed sec. 4301.

[11] 7 U.S.C. 1446 note.

this Act, the Secretary shall discontinue the price support programs for sunflower seeds and cottonseed required by this section.

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SEC. 4305.[5] EXPORT CREDIT GUARANTEE PROGRAM. * * * [Repealed—1990]

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SEC. 4309.[12] BARTER OF AGRICULTURAL COMMODITIES.

In recognition of the importance of barter programs in expanding agricultural trade, it is the sense of Congress that the Secretary of Agriculture should expedite the implementation of section 416(d) of the Agricultural Act of 1949 (7 U.S.C. 1431(d)) and section 1167 of the Food Security Act of 1985 (7 U.S.C. 1727g note and 1736aa), relating to the barter of agricultural commodities.

SEC. 4310.[13] MINIMUM LEVEL OF FOOD ASSISTANCE.

(a) ANNUAL MINIMUM.—It is the sense of Congress that—

(1) the United States should maintain its historic proportion of food assistance constituting one-third of all United States foreign economic assistance; and

(2) accordingly, the total amount of food assistance made available to foreign countries under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.) and section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)) should not be less than one-third of the total amount of foreign economic assistance provided for each fiscal year.

(b) DEFINITION.—For purposes of this section, the term "foreign economic assistance" includes—

(1) assistance under chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.), section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)), or any other law authorizing economic assistance for foreign countries; and

(2) United States contributions to the International Bank for Reconstruction and Development, the International Development Association, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, or any other multilateral development bank.

SEC. 4311.[5] FOOD AID AND MARKET DEVELOPMENT. * * * [Repealed—1990]

SUBTITLE D—WOOD AND WOOD PRODUCTS

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SEC. 4404.[14] USE OF DEPARTMENT OF AGRICULTURE PROGRAMS.

The Secretary of Agriculture shall actively use Department of Agriculture concessional programs and export credit guarantee programs to promote the export of wood and processed wood products.

[12] 7 U.S.C. 1431 note.
[13] 7 U.S.C. 1691 note.
[14] 7 U.S.C. 1736t note.

SUBTITLE E—STUDIES AND REPORTS

SEC. 4501. STUDY OF CANADIAN WHEAT IMPORT LICENSING REQUIREMENTS.

(a) FINDINGS.—Congress finds that—

(1) Canadian importers of wheat or products containing a minimum of 25 percent wheat (except packaged wheat products for retail sale) from the United States must obtain import licenses from the Canadian Wheat Board;

(2) the Canadian Wheat Board requires such importers of United States wheat and wheat products to prove that the wheat or wheat products to be imported are not readily available in Canada before issuance of an import license, and therefore, for all practical purposes, such licenses are not granted by the Canadian Wheat Board;

(3) the licensing requirements of the Canadian Wheat Board's import licensing program result in a trade barrier on the importation of United States wheat and wheat products; and

(4) Canada is a member of the General Agreement on Tariffs and Trade and, under such agreement, member countries should, in general, eliminate import licensing programs that operate as nontariff trade barriers.

(b) STUDY.—The Secretary of Agriculture shall conduct a study of the Canadian Wheat Board's import licensing program to—

(1) assess the effect of the Canadian Wheat Board's import licensing program referred to in subsection (a) on wheat producers, processors, and exporters in the United States; and

(2) determine—

(A) the nature and extent of the licensing requirements of the Canadian Wheat Board's import licensing program; and

(B) the estimated effect of the Canadian Wheat Board's import licensing program in reducing exports of United States wheat and wheat products to Canada.

(c) SUBMISSION OF RESULTS.—Not later than 90 days after the date of enactment of this Act, the Secretary shall submit the results of the study conducted under subsection (b) to the United States Trade Representative.

(d) CONSULTATION WITH CONGRESS.—Not later than 90 days after the results of the study are submitted, the Secretary and the United States Trade Representative shall consult with the Committee on Agriculture and the Committee on Ways and Means of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance of the Senate on the status of efforts to negotiate the elimination of such Canadian licensing requirements.

SEC. 4502.[15] IMPORT INVENTORY.

(a) COMPILATION AND REPORT ON IMPORTS.—The Secretary of Agriculture, in consultation with the Secretary of Commerce, the

[15] 7 U.S.C. 626.

International Trade Commission, the United States Trade Representative, and the heads of all other appropriate Federal agencies, shall compile and report to the public statistics on the total value and quantity of imported raw and processed agricultural products. The report shall be limited to those statistics that such agencies already obtain for other purposes.

(b) COMPILATION AND REPORT ON CONSUMPTION.—The Secretary shall compile and report to the public data on the total quantity of production and consumption of domestically produced raw and processed agricultural products.

(c) ISSUING OF DATA.—The reports required by this section shall be made in a format that correlates statistics for the quantity and value of imported agricultural products to the production and consumption of domestic agricultural products. The Secretary shall issue such reports on an annual basis, with the first report required not later than 1 year after the date of enactment of this Act.

SEC. 4503. STUDY RELATING TO HONEY.

(a) STUDY.—The Secretary of Agriculture shall conduct a study to determine the effect of imported honey on United States honey producers, the availability of honey bee pollination within the United States, and whether there is reason to believe imports of honey tend to interfere with or render ineffective the honey price support program of the Department of Agriculture.

(b) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall report the results of such study to the Committee on Agriculture and the Committee on Ways and Means of the House of Representatives and to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance of the Senate.

SEC. 4504. STUDY OF DAIRY IMPORT QUOTAS.

(a) STUDY.—Not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture shall conduct a study to determine whether, and to what extent, the price support program for milk established under section 201(d) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)) would be affected by a reduction in, or elimination of, limitations imposed on the importation of certain dairy products under section 22 of the Agricultural Adjustment Act (7 U.S.C. 624), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, as a result of multilateral trade negotiations, including negotiations under the General Agreement on Tariffs and Trade. In conducting this study, the Secretary shall assess the likelihood of other nations' agreeing to reduce or eliminate their domestic dairy price stabilization, export subsidization, or import control programs in such multilateral negotiations.

(b) REPORT.—The Secretary shall submit a report describing the results of the study, together with any recommendations, to the Committee on Agriculture and the Committee on Ways and Means of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance of the Senate.

SEC. 4505. REPORT ON INTERMEDIATE EXPORT CREDIT.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Agriculture shall submit a report to the Committee on Agriculture and the Committee on Foreign Affairs[16] of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, on the use of authorities established under section 4 of the Food for Peace Act of 1966 (7 U.S.C. 1707a), the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.), section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431), and the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), to provide intermediate credit financing and other trade assistance for the establishment of facilities in importing countries—

(1) to improve the handling, marketing, processing, storage, and distribution of imported agricultural commodities and products;

(2) to increase livestock production in order to enhance the demand for United States feed grains; and

(3) to increase markets for United States livestock and livestock products.

SEC. 4506.[17] IMPORTED MEAT, POULTRY PRODUCTS, EGGS, AND EGG PRODUCTS.

(a) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Agriculture shall submit a report to Congress—

(1) specifying the planned distribution, in fiscal years 1988 and 1989, of the resources of the Department of Agriculture available for sampling imported covered products to ensure compliance with the requirements of the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), the Poultry Products Inspection Act (21 U.S.C. 451 et seq.), and the Egg Products Inspection Act (21 U.S.C. 1031 et seq.) that govern the level of residues of pesticides, drugs, and other products permitted in or on such products;

(2) describing current methods used by the Secretary to enforce the requirements of such Acts with respect to the level of residues of pesticides, drugs, and other products permitted in or on such products;

(3) responding to the audit report of the Inspector General of the Department of Agriculture, Number 38002–2–hy, dated January 14, 1987;

(4) providing a summary with respect to the importation of covered products during fiscal years 1987 and 1988 that specifies—

(A) the number of samples of each such product taken during each such fiscal year in carrying out the requirements described in paragraph (1); and

(B) for each violation of such requirements during each such fiscal year—

[16] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

[17] 21 U.S.C. 1401 note.

(i) the covered products with respect to which such violation occurred;

(ii) the residue in or on such product in violation of such requirements;

(iii) the country exporting such product;

(iv) the actions taken in response to such violation and the reasons for such actions; and

(v) the level of testing conducted by the countries exporting such products;

(5) describing any research conducted by the Secretary to develop improved methods to detect residues subject to such requirements in or on covered products; and

(6) providing any recommendations the Secretary considers appropriate for legislation to add or modify penalties for violations of laws, regulations, and other enforcement requirements governing the level of residues that are permitted in or on imported covered products.

(b) REVISION.—Not later than November 15, 1989, the Secretary of Agriculture shall revise, as necessary, the report prepared under subsection (a) and submit the revision to Congress.

(c) DEFINITION.—As used in this section, the term "covered products" means meat, poultry products, eggs, and egg products.

SEC. 4507. STUDY OF CIRCUMVENTION OF AGRICULTURAL QUOTAS.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study with respect to—

(1) whether articles containing dairy products (including chocolate in blocks of at least 10 pounds and other such products) are being imported into the United States in such a manner or in such quantities as to circumvent or avoid the limitations imposed on imports of dairy products under section 22 of the Agricultural Adjustment Act (7 U.S.C. 624), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937; and

(2) whether products containing refined sugar are being imported into the United States in such a manner or in such quantities as to circumvent or avoid the limitations imposed on imports of refined sugar and sugar containing products imposed under Federal law.

(b) REQUIREMENTS.—In conducting the study required under subsection (a), the Comptroller General shall investigate—

(1) the efforts undertaken by the United States Customs Service in the enforcement of the existing quantitative limitations described in subsection (a);

(2) the change in the composition, volume, and pattern of imports containing sugar and imports containing dairy products subsequent to the initial imposition of the quantitative limitations;

(3) the effectiveness of section 22 of the Agricultural Adjustment Act (7 U.S.C. 624), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, in preventing the circumvention or avoidance of the quantitative limitations; and

(4) the use of United States foreign trade zones to circumvent the quantitative limitations.

(c) REPORT.—On completion of the study required by this section, the Comptroller General shall report the results of the study to the Committee on Agriculture and the Committee on Ways and Means of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance of the Senate.

SEC. 4508. STUDY OF LAMB MEAT IMPORTS.

(a) STUDY.—The Secretary of Agriculture shall conduct a study of the market for lamb meat products in the United States, focusing on production, demand, rate of return on investment, marketing and trends with respect to the level of imports of live lamb and lamb meat products, and the effects of such imports on the production of lamb meat in the United States.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Ways and Means and the Committee on Agriculture of the House of Representatives and the Committee on Finance and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report setting forth the results of such study. If appropriate, the report should include proposals on ways to bring about a long-term increase in per capita consumption of lamb meat products and ways to encourage a more profitable and productive domestic industry to ensure a plentiful and affordable supply of lamb meat.

SEC. 4509. ROSE STUDY.

(a) STUDY.—Not later than 240 days after the date of enactment of this Act, the United States International Trade Commission shall, pursuant to section 332 of the Tariff Act of 1930 (19 U.S.C. 1332), complete a study with respect to—

(1) competitive factors affecting the domestic rose-growing industry, including competition from imports;

(2) the effect that the European Community's tariff rate for imported roses has on world trade of roses; and

(3) the extent to which unfair trade practices and foreign barriers to trade are impeding the marketing abroad of domestically produced roses.

(b) REPORT.—The Commission shall report the results of the study conducted in accordance with subsection (a) as soon as the study is completed to—

(1) the Committee on Agriculture and the Committee on Ways and Means of the House of Representatives;

(2) the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance of the Senate;

(3) the United States Trade Representative;

(4) the Secretary of Commerce; and

(5) the Secretary of Agriculture.

(c) REVIEW.—It is the sense of Congress that the United States Trade Representative, the Secretary of Commerce, and the Secretary of Agriculture, should use all available remedies, programs, and policies within their respective jurisdictions to assist the domestic rose industry to maintain and enhance its ability to compete in the domestic and world market for roses if, after their review of

the study and report required by this section, such officials determine that such action is appropriate to counter any adverse effects on the domestic rose industry caused by unfair trade practices of foreign competitors.

SUBTITLE F—MISCELLANEOUS AGRICULTURAL PROVISIONS

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SEC. 4605. STUDY OF INTERNATIONAL MARKETING IN LAND GRANT COLLEGES AND UNIVERSITIES.

It is the sense of Congress that—

(1) land grant colleges and universities (as defined in section 1404(10) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(10)) should encourage the study and career objective of international marketing of agricultural commodities and products;

(2) because marketing complements production, international agricultural marketing specialists are needed in a globally competitive world; and

(3) enhanced foreign marketing of United States agricultural commodities and products will help relieve stress in the rural economy.

SEC. 4606. INTERNATIONAL TRADE IN EGGS AND EGG PRODUCTS.

(a) FINDINGS.—Congress finds that—

(1) the system of basic and variable levies of the European Community has severely restricted the export of United States eggs and egg products to European Community member countries;

(2) export subsidies of the European Community have caused displacement of United States egg exports in international markets; and

(3) the Secretary of Agriculture is in the process of certifying the Netherland's inspection procedures for egg products for the purpose of importation into the United States of egg products of the Netherlands.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the United States Trade Representative should enter into negotiations with the European Community concerning—

(1) duties, tariffs, and other means used by the European Community to limit the access of United States eggs and egg products to European Community markets; and

(2) European Community export subsidies that have had the effect of excluding United States eggs and egg products from other world markets.

SEC. 4607. UNITED STATES ACCESS TO THE KOREAN BEEF MARKET.

(a) FINDINGS.—Congress finds that—

(1) the 1986 United States trade deficit with the Republic of Korea was $7,600,000,000;

(2) the Republic of Korea has banned beef imports since May 1985;

(3) this beef import ban is in contravention of Korea's obligations under the General Agreement on Tariffs and Trade and impairs United States rights under such agreement;

(4) Korea imposes an unreasonably high 20 percent ad valorem tariff on meat products; and

(5) if the Korean beef market were liberalized, the United States, due to comparative advantage, could supply a significant portion of the Korean market for beef, thereby increasing profit opportunities for the United States beef industry while benefiting Korean consumers.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Republic of Korea should take immediate action to fulfill its obligations under the General Agreement on Tariffs and Trade and permit access to its market for United States beef;

(2) the United States should aggressively pursue negotiations to gain access to the Korean market for United States beef;

(3) such negotiations, in addition to elimination of the beef import ban, should address the high tariffs set by the Republic of Korea and the means by which imported beef is distributed in Korea; and

(4) if the Republic of Korea does not show clear evidence that it is engaging in meaningful liberalization of its market for United States beef, the United States should use all available and appropriate means to encourage the Republic of Korea to open its market to United States beef imports.

SEC. 4608. UNITED STATES ACCESS TO JAPANESE AGRICULTURAL MARKETS.

(a) FINDINGS.—Congress finds that—

(1) the United States requested establishment of a panel pursuant to Article XXIII of the General Agreement on Tariffs and Trade (hereinafter in this section referred to as "GATT") to examine Japanese import restrictions on 12 categories of agricultural products;

(2) the GATT panel found that Japanese quantitative restrictions on 10 of the 12 product categories are inconsistent with Article XI of the GATT and recommended that Japan eliminate them or otherwise take action to bring them into conformity with the GATT; and

(3) the rationale behind the GATT panel finding can also be applied to other restrictions that Japan maintains on imports from the United States, including—

(A) a virtual ban on imports of United States rice;

(B) a very restrictive quota on imports of United States beef; and

(C) high tariffs and restrictive quotas on imports of United States citrus.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Government of Japan should immediately take actions to comply with the findings of the GATT panel report;

(2) the Government of Japan should immediately liberalize its trade policies by lowering high tariffs and removing quotas on agricultural imports from the United States, including those imposed on rice, beef, and citrus, in order to avoid any damage to the close relations between Japan and the United States; and

(3) the United States should continue efforts to persuade the Government of Japan to remove its trade barriers.

SEC. 4609.[18] **SENSE OF CONGRESS RELATING TO SECTION 22.**

It is the sense of Congress that—

(1) the amounts of assessments collected under the no-net-cost tobacco program can be an indicator of import injury and material interference with the tobacco price support program administered by the Secretary of Agriculture; and

(2) for purposes of any investigation conducted under section 22(a) of the Agricultural Adjustment Act (7 U.S.C. 624(a)), re-enacted with amendments by the Agricultural Marketing Agreement Act of 1937, with respect to tobacco, or articles containing tobacco, imported into the United States, the International Trade Commission should take into account, as if they are costs to the Federal government, contributions and assessments imposed under sections 106A and 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–1 and 1445–2) in determining whether such imported tobacco or articles containing tobacco materially interfere with the tobacco price support program carried out by the Secretary of Agriculture.

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[18] 7 U.S.C. 624 note.

b. Agricultural Trade Act of 1978 [1]

Public Law 95–501 [S. 3447], 92 Stat. 1685, approved October 21, 1978; amended by Public Law 101–624 [Food, Agriculture, Conservation, and Trade Act of 1990; S. 2830], 104 Stat. 3359, approved November 28, 1990; Public Law 102–237 [Food, Agriculture, Conservation, and Trade Act Amendments of 1991; H.R. 3029], 105 Stat. 1818, approved December 13, 1991; Public Law 102–511 [FREEDOM Support Act, S. 2532], 106 Stat. 3320, approved October 24, 1992; Public Law 103–66 [Omnibus Budget Reconciliation Act of 1993; H.R. 2264], 107 Stat. 312, approved August 10, 1993; Public Law 103–354 [Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994; H.R. 4217], 108 Stat. 3178, approved October 13, 1994; Public Law 103–465 [Uruguay Round Agreements Act; H.R. 5110], 110 Stat. 4809, approved December 8, 1994; Public Law 104–127 [Federal Agriculture Improvement and Reform Act of 1996; H.R. 2854], 110 Stat. 888, approved April 4, 1996; Public Law 106–78 [Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2000; H.R. 1906], 113 Stat. 1135, approved October 22, 1999; and by Public Law 107–171 [Farm Security and Rural Investment Act of 2002; H.R. 2646], 116 Stat. 134, approved May 13, 2002

AN ACT To strengthen the economy of the United States through increased sales abroad of United States agricultural commodities.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Agricultural Trade Act of 1978".

SECTION 1.[2] SHORT TITLE.

This Act may be cited as the "Agricultural Trade Act of 1978".

TITLE I—GENERAL PROVISIONS

SEC. 101.[3] PURPOSE.

It is the purpose of this Act to increase the profitability of farming and to increase opportunities for United States farms and agricultural enterprises by—

(1) increasing the effectiveness of the Department of Agriculture in agricultural export policy formulation and implementation;

(2) improving the competitiveness of United States agricultural commodities and products in the world market; and

(3) providing for the coordination and efficient implementation of all agricultural export programs.

SEC. 102.[4] DEFINITIONS.

As used in this Act—

(1) AGRICULTURAL COMMODITY.—The term "agricultural commodity" means any agricultural commodity, food, feed, fiber, or livestock (including livestock as it is defined in section 602(2)

[1] Sec. 1531 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3669) struck out the previous text and substantially restated this Act.
[2] 7 U.S.C. 5601 note.
[3] 7 U.S.C. 5601.
[4] 7 U.S.C. 5602.

of the Agricultural Act of 1949 (7 U.S.C. 1471(2)) and insects),[5] and any product thereof.

(2) DEVELOPING COUNTRY.—The term "developing country" means a country that—

(A) has a shortage of foreign exchange earnings and has difficulty accessing sufficient commercial credit to meet all of its food needs, as determined by the Secretary; and

(B) has the potential to become a commercial market for agricultural commodities.

(3) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(4) SERVICE.—The term "Service" means the Foreign Agricultural Service of the Department of Agriculture.

(5) UNFAIR TRADE PRACTICE.—

(A) IN GENERAL.—Subject to subparagraph (B), the term "unfair trade practice" means any act, policy, or practice of a foreign country that—

(i) violates, or is inconsistent with, the provisions of, or otherwise denies benefits to the United States under, any trade agreement to which the United States is a party;[6]

(ii)[6] in the case of a monopolistic state trading enterprise engaged in the export sale of an agricultural commodity, implements a pricing practice that is inconsistent with sound commercial practice;

(iii)[6] provides a subsidy that—

(I) decreases market opportunities for United States exports; or

(II) unfairly distorts an agricultural market to the detriment of United States exporters;

(iv) imposes an unfair technical barrier to trade, including—

(I) a trade restriction or commercial requirement (such as a labeling requirement) that adversely affects a new technology (including biotechnology); and

(II) an unjustified sanitary or phytosanitary restriction (including any restriction that, in violation of the Uruguay Round Agreements, is not based on scientific principles;

(v) imposes a rule that unfairly restricts imports of United States agricultural commodities in the administration of tariff rate quotas; or

(vi) fails to adhere to, or circumvents any obligation under, any provision of a trade agreement with the United States.

(B) CONSISTENCY WITH 1974 TRADE ACT.—Nothing in this Act may be construed to authorize the Secretary to make

[5] Sec. 702(a) of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3349), struck out "feed, or fiber" and inserted in lieu thereof "feed, fiber, or livestock (including livestock as it is defined in section 602(2) of the Agricultural Act of 1949 (7 U.S.C. 1471(2)) and insects)".

[6] Sec. 3104(b) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 290) struck out "or" at the end of clause (i), amended and restated clause (ii), and added clauses (iii) through (vi).

any determination regarding an unfair trade practice that is inconsistent with section 301 of the Trade Act of 1974 (19 U.S.C. 2411).

(6) UNITED STATES.—The term "United States" includes each of the States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States.

(7)[7] UNITED STATES AGRICULTURAL COMMODITY.—The term "United States agricultural commodity" means—

(A) an agricultural commodity or product entirely produced in the United States; or

(B) a product of an agricultural commodity—

(i) 90 percent of more of the agricultural components of which by weight, excluding packaging and added water, is entirely produced in the United States; and

(ii) that the Secretary determines to be a high value agricultural product.

For purposes of this paragraph, fish entirely produced in the United States include fish harvested by a documented fishing vessel as defined in title 46, United States Code, in waters that are not waters (including the territorial sea) of a foreign country.

(8)[8] INDEPENDENT STATES OF THE FORMER SOVIET UNION.—The term "independent states of the former Soviet Union" means the following: Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.

SEC. 103.[9] AGRICULTURAL EXPORT PROMOTION STRATEGY.

(a) IN GENERAL.—The Secretary shall develop a strategy for implementing Federal agricultural export promotion programs that takes into account the new market opportunities for agricultural products, including opportunities that result from—

(1) the North American Free Trade Agreement and the Uruguay Round Agreements;

(2) any accession to membership in the World Trade Organization;

(3) the continued economic growth in the Pacific Rim; and

(4) other developments.

(b) PURPOSE OF STRATEGY.—The strategy developed under subsection (a) shall encourage the maintenance, development, and expansion of export markets for United States agricultural commodities and related products, including high-value and value-added products.

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[7] Sec. 243(c) of Public Law 104–127 (110 Stat. 967) struck out subparas. (A) and (B) and inserted new subparas. (A) and (B).

[8] Sec. 702(b) of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3349) added para. (8).

[9] 7 U.S.C. 5603. Sec. 241(a) of Public Law 104–127 (110 Stat. 963) amended and restated sec. 103. Sec. 241(b) of that Act further stated:

"(b) SENSE OF CONGRESS.—It is the sense of Congress that—

"(1) the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate should conduct a thorough review of agricultural export and food aid programs not later than December 31, 1998; and

"(2) the review should examine what changes, if any, need to be made in the programs as a result of the effects of the Agricultural Market Transition Act, the Uruguay Round Agreements, changing world market conditions, and such other factors as the committees consider appropriate.".

(c) GOALS OF STRATEGY.—The strategy developed under subsection (a) shall have the following goals:

(1) Increase the value of United States agricultural exports each year.

(2) Increase the value of United States agricultural exports each year at a faster rate than the rate of increase in the value of overall world export trade in agricultural products.

(3) Increase the value of United States high-value and value-added agricultural exports each year.

(4) Increase the value of United States high-value and value-added agricultural exports each year at a faster rate than the rate of increase in the value of overall world export trade in high-value and value-added agricultural products.

(5) Ensure that to the extent practicable—

(A) all obligations undertaken in the Uruguay Round Agreement on Agriculture that significantly increase access for United States agricultural commodities are implemented to the extent required by the Uruguay Round Agreements; or

(B) applicable United States laws are used to secure United States rights under the Uruguay Round Agreement on Agriculture.

(d) PRIORITY MARKETS.—

(1) IDENTIFICATION OF MARKETS.—In developing the strategy required under subsection (a), the Secretary shall annually identify as priority markets—

(A) those markets in which imports of agricultural products show the greatest potential for increase; and

(B) those markets in which, with the assistance of Federal export promotion programs, exports of United States agricultural products show the greatest potential for increase.

(2) IDENTIFICATION OF SUPPORTING OFFICES.—The President shall identify annually in the budget of the United States Government submitted under section 1105 of title 31, United States Code, each overseas office of the Foreign Agricultural Service that provides assistance to United States exporters in each of the priority markets identified under paragraph (1).

SEC. 104.[10] PRESERVATION OF TRADITIONAL MARKETS.

The Secretary shall, in implementing programs of the Department of Agriculture intended to encourage or assist exports of agricultural commodities, seek to preserve traditional markets for United States agricultural commodities.

SEC. 105.[11] INDEPENDENCE OF AUTHORITIES.

Each authority granted under this Act shall be in addition to, and not in lieu of, any authority granted to the Secretary or the Commodity Credit Corporation under any other provision of law.

[10] 7 U.S.C. 5604.
[11] 7 U.S.C. 5605.

SEC. 106.[12] IMPLEMENTATION OF COMMITMENTS UNDER URUGUAY ROUND AGREEMENTS.

Not later than September 30 of each year, the Secretary shall evaluate whether the obligations undertaken by foreign countries under the Uruguay Round Agreement on Agriculture are being fully implemented. If the Secretary has reason to believe (based on the evaluation) that any foreign country, by not implementing the obligations of the country, may be significantly constraining an opportunity for United States agricultural exports, the Secretary shall—

(1) submit the evaluation to the United States Trade Representative; and

(2) transmit a copy of the evaluation to the Committee on Agriculture, and the Committee on Ways and Means, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry, and the Committee on Finance, of the Senate.

SEC. 107.[13] EXPORTER ASSISTANCE INITIATIVE.

To provide a comprehensive source of information to facilitate exports of United States agricultural commodities, the Secretary shall maintain on a website on the Internet information to assist exporters and potential exporters of United States agricultural commodities.

TITLE II—AGRICULTURAL EXPORT PROGRAMS

SUBTITLE A—PROGRAMS [14]

SEC. 201.[15] DIRECT CREDIT SALES PROGRAM.

(a) SHORT-TERM PROGRAM.—To promote the sale of agricultural commodities, the Commodity Credit Corporation may finance the commercial export sale of such commodities from privately owned stocks on credit terms for not to exceed a 3-year period.

(b) INTERMEDIATE-TERM PROGRAM.—Subject to subsection (c), to promote the sale of agricultural commodities the Commodity Credit Corporation may finance the commercial export sales of agricultural commodities from privately owned stocks on credit terms for a period of not less than 3 years nor in excess of 10 years in a manner that will directly benefit United States agricultural producers.

(c) DETERMINATIONS.—The Commodity Credit Corporation shall not finance an export sale under subsection (b) unless the Secretary determines that such sale will—

(1) develop, expand, or maintain the importing country as a foreign market, on a long-term basis, for the commercial sale and export of United States agricultural commodities, without displacing normal commercial sales;

(2) improve the capability of the importing country to purchase and use, on a long-term basis, United States agricultural commodities; or

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[12] 7 U.S.C. 5606. Added by sec. 242(a) of Public Law 104–127 (110 Stat. 964).

[13] 7 U.S.C. 5607. Added by sec. 3101 of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 288).

[14] Sec. 310 of Public Law 102–237 (105 Stat. 1856) inserted this subtitle heading.

[15] 7 U.S.C. 5621. Sec. 707 of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3350) substantially amended sec. 201.

(3) otherwise promote the export of United States agricultural commodities.

The reference in paragraphs (1) and (2) to "on a long-term basis" shall not apply in the case of determinations with respect to sales to the independent states of the former Soviet Union.[16]

(d) USE OF PROGRAM.—

(1) GENERAL USES.—The Commodity Credit Corporation may use export sales financing authorized under this section—

(A) to increase exports of agricultural commodities;

(B) to compete against foreign agricultural exports;

(C)[17] to assist countries in meeting their food and fiber needs, particularly—

(i) developing countries; and

(ii) countries that are emerging markets[18] that have committed to carry out, or are carrying out, policies that promote economic freedom, private domestic production of food commodities for domestic consumption, and the creation and expansion of efficient domestic markets for the purchase and sale of agricultural commodities; and

(D) for such other purposes as the Secretary determines appropriate consistent with the provisions of subsection (c).

(2) GENERAL RESTRICTIONS.—Export sales financing authorized under this section shall not be used for foreign aid, foreign policy, or debt rescheduling purposes. The provisions of the cargo preference laws shall not apply to export sales financed under this section.

(e) TERMS OF CREDIT ASSISTANCE.—Any contract for the financing of exports by the Commodity Credit Corporation under this section shall include—

(1) a requirement that repayment shall be made in dollars with interest accruing thereon as determined appropriate by the Secretary; and

(2) a requirement, if the Secretary determines such requirement appropriate to protect the interests of the United States, that an initial payment be made by the purchaser at the time of sale or shipment of the agricultural commodity that is subject to the contract.

(f)[19] RESTRICTIONS.—The Commodity Credit Corporation may not make export sales financing authorized under this section available in connection with sales of an agricultural commodity to any country that the Secretary determines cannot adequately service the debt associated with such sale.

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[16] Sec. 707(a) of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3350) added the last sentence.

[17] Sec. 707(b) of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3350) restated subpara. (C). It formerly read as follows:

"(C) to assist countries, particularly developing countries, in meeting their food and fiber needs; and".

[18] Sec. 277(c)(2) of Public Law 104–127 (110 Stat. 979) struck out "emerging democracies" and inserted in lieu thereof "emerging markets".

[19] Sec. 707(c) of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3351) added subsec. (f).

SEC. 202.[20] EXPORT CREDIT GUARANTEE PROGRAM.

(a) SHORT-TERM CREDIT GUARANTEES.—(1)[21] IN GENERAL.—The Commodity Credit Corporation may guarantee the repayment of credit made available to finance commercial export sales of agricultural commodities, including processed agricultural products and high-value agricultural products,[22] from privately owned stocks on credit terms that do not exceed a 3–year period.

(2)[21] SUPPLIER CREDITS.—In carrying out this section, the Commodity Credit Corporation may issue guarantees for the repayment of credit made available for a period of not more than 180 days by a United States exporter to a buyer in a foreign country.

(3)[23] EXTENDED SUPPLIER CREDITS.—

(A) IN GENERAL.—Subject to the appropriation of funds under subparagraph (B), in carrying out this section, the Commodity Credit Corporation may issue guarantees for the repayment of credit made available for a period of more than 180 days, but not more than 360 days, by a United States exporter to a buyer in a foreign country.

(B) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to fund the additional costs attributable to the portion of any guarantee issued under this paragraph to cover the repayment of credit beyond the initial 180-day period.

(b) INTERMEDIATE-TERM CREDIT GUARANTEES.—Subject to the provisions of subsection (c), the Commodity Credit Corporation may guarantee the repayment of credit made available by financial institutions in the United States to finance commercial export sales of agricultural commodities, including processed agricultural products and high-value agricultural products,[22] from privately owned stocks on credit terms that are for not less than a 3-year period nor for more than a 10-year period in a manner that will directly benefit United States agricultural producers.

(c) REQUIRED DETERMINATIONS.—The Commodity Credit Corporation shall not guarantee under subsection (b) the repayment of credit made available to finance an export sale unless the Secretary determines that such sale will—

(1) develop, expand, or maintain the importing country as a foreign market, on a long-term basis, for the commercial sale and export of United States agricultural commodities, without displacing normal commercial sales;

(2) improve the capability of the importing country to purchase and use, on a long-term basis, United States agricultural commodities; or

(3) otherwise promote the export of United States agricultural commodities.

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[20] 7 U.S.C. 5622.

[21] Sec. 243(a) of Public Law 104–127 (110 Stat. 965) added para. designation "(1)" and a new para. (2).

[22] Sec. 709(a)(1) of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3351) inserted ", including processed agricultural products and high-value agricultural products," after "agricultural commodities" at each place it appears in subsecs. (a) and (b).

[23] Sec. 3102(a) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 289) added para. (3).

The reference in paragraphs (1) and (2) to "on a long-term basis" shall not apply in the case of determinations with respect to sales to the independent states of the former Soviet Union.[24]

(d) PURPOSE OF PROGRAM.—The Commodity Credit Corporation may use export credit guarantees authorized under this section—

(1) to increase exports of agricultural commodities;

(2) to compete against foreign agricultural exports;

(3)[25] to assist countries in meeting their food and fiber needs, particularly—

(A) developing countries; and

(B) countries that are emerging markets[26] that have committed to carry out, or are carrying out, policies that promote economic freedom, private domestic production of food commodities for domestic consumption, and the creation and expansion of efficient domestic markets for the purchase and sale of agricultural commodities; and

(4) for such other purposes as the Secretary determines appropriate, consistent with the provisions of subsection (c).

(e) RESTRICTIONS ON USE OF CREDIT GUARANTEES.—Export credit guarantees authorized by this section shall not be used for foreign aid, foreign policy, or debt rescheduling purposes. The provisions of the cargo preference laws shall not apply to export sales with respect to which credit is guaranteed under this section.

(f) RESTRICTIONS.—

(1)[27] IN GENERAL.—The Commodity Credit Corporation shall not make credit guarantees available in connection with sales of agricultural commodities to any country that the Secretary determines cannot adequately service the debt associated with such sale.

(2)[27] CRITERIA FOR DETERMINATION.—In making the determination required under paragraph (1) with respect to credit guarantees under subsection (b) for a country, the Secretary may consider, in addition to financial, macroeconomic, and monetary indicators—

(A) whether an International Monetary Fund standby agreement, Paris Club rescheduling plan, or other economic restructuring plan is in place with respect to the country;

(B) whether the country is addressing issues such as—

(i) the convertibility of the currency of the country;

(ii) adequate legal protection for foreign investments;

(iii) the viability of the financial markets of the country; and

(iv) adequate legal protection for the private property rights of citizens of the country; or

[24] Sec. 708(a) of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3351) added this last sentence to subsec. (c).

[25] Sec. 708(b) of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3351) restated para. (3), which had read as follows:

"(3) to assist countries, particularly developing countries, in meeting their food and fiber needs; and".

[26] Sec. 277(c)(3) of Public Law 104–127 (110 Stat. 979) struck out "emerging democracies" and inserted in lieu thereof "emerging markets".

[27] Sec. 243(a)(2) of Public Law 104–127 (110 Stat. 966) added para. designation "(1)" and added a new para. (2).

(C) any other factors that are relevant to the ability of the country to service the debt of the country.

(g) TERMS.—Export credit guarantees issued pursuant to this section shall contain such terms and conditions as the Commodity Credit Corporation determines to be necessary.

(h)[28] UNITED STATES AGRICULTURAL COMMODITIES.—The Commodity Credit Corporation shall finance or guarantee under this section only United States agricultural commodities.

(i)[29] INELIGIBILITY OF FINANCIAL INSTITUTIONS.—

(1) IN GENERAL.—A financial institution shall be ineligible to receive an assignment of a credit guarantee issued by the Commodity Credit Corporation under this section if it is determined by the Corporation, at the time of the assignment, that[30] such financial institution—

(A) is the financial institution issuing the letter of credit or a subsidiary of such institution; or

(B) is owned or controlled by an entity that owns or controls that financial institution issuing the letter of credit.

(2) THIRD COUNTRY BANKS.—The Commodity Credit Corporation may guarantee under subsections (a) and (b) the repayment of credit made available to finance an export sale irrespective of whether the obligor is located in the country to which the export sale is destined.

(j) CONDITIONS FOR FISH AND PROCESSED FISH PRODUCTS.—In making available any guarantees of credit under this section in connection with sales of fish and processed fish products, the Secretary shall make such guarantees available under terms and conditions that are comparable to the terms and conditions that apply to guarantees provided with respect to sales of other agricultural commodities under this section.

(k)[31] PROCESSED AND HIGH-VALUE PRODUCTS.—

(1) IN GENERAL.—In issuing export credit guarantees under this section, the Commodity Credit Corporation shall, subject to paragraph (2), ensure that not less than 25 percent for each of fiscal years 1996 and 1997, 30 percent for each of fiscal years 1998 and 1999, and 35 percent for each of fiscal years 2000 through 2007,[32] of the total amount of credit guarantees issued for a fiscal year is issued to promote the export of processed or high-value agricultural products and that the balance

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[28] Sec. 243(a)(3) of Public Law 104–127 (110 Stat. 966) amended and restated subsec. (h). It formerly read as follows:

"(h) FOREIGN AGRICULTURAL COMPONENTS.—The Commodity Credit Corporation shall finance or guarantee under this section only United States agricultural commodities. The Commodity Credit Corporation shall not finance or guarantee under this section the value of any foreign agricultural component.".

[29] In subsec. (i), sec. 243(a)(4) of Public Law 104–127 (110 Stat. 966) struck out para. (1), which had read, "(1) is not in sound financial condition;", inserted a new para. (1), redesignated former paras. (2) and (3) as subparas. (A) and (B), and added a new para. (2).

[30] Sec. 334 of Public Law 102–237 (105 Stat. 1859) struck out "or proceeds payable under a credit guarantee issued by the Commodity Credit Corporation under this section if it is determined by the Corporation that" and inserted in lieu thereof "issued by the Commodity Credit Corporation under this section if it is determined by the Corporation, at the time of the assignment, that".

[31] Sec. 709(a)(2) of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3351) added subsec. (k), relating to set-asides. Sec. 243(a)(5) of Public Law 104–127 (110 Stat. 966) amended and restated the subsection.

[32] Sec. 3102(b) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 289) struck out ", 2001, and 2002" and inserted in lieu thereof "through 2007".

is issued to promote the export of bulk or raw agricultural commodities.

(2) LIMITATION.—The percentage requirement of paragraph (1) shall apply for a fiscal year to the extent that a reduction in the total amount of credit guarantees issued for the fiscal year is not required to meet the percentage requirement.

(l)[33] CONSULTATION ON AGRICULTURAL EXPORT CREDIT PROGRAMS.—The Secretary and the United States Trade Representative shall consult on a regular basis with the Committee on Agriculture, and the Committee on International Relations, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the status of multilateral negotiations regarding agricultural export credit programs.

SEC. 203.[34] MARKET ACCESS PROGRAM.

(a) IN GENERAL.—The Commodity Credit Corporation shall establish and carry out a program to encourage the development, maintenance, and expansion of commercial export markets for agricultural commodities through cost-share assistance to eligible trade organizations that implement a foreign market development program.

(b) TYPE OF ASSISTANCE.—Assistance under this section may be provided in the form of funds of, or commodities owned by, the Commodity Credit Corporation, as determined appropriate by the Secretary.

(c)[35] REQUIREMENTS FOR PARTICIPATION.—To be eligible for cost-share assistance under this section, an organization shall—

(1) be an eligible trade organization;

(2) prepare and submit a marketing plan to the Secretary that meets the guidelines governing such plans established by the Secretary; and

(3) meet any other requirements established by the Secretary.

(d) ELIGIBLE TRADE ORGANIZATIONS.—An eligible trade organization shall be—

(1) a United States agricultural trade organization or regional State-related organization that promotes the export and sale of agricultural commodities and that does not stand to profit directly from specific sales of agricultural commodities;

(2) a cooperative organization or State agency that promotes the sale of agricultural commodities; or

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[33] Sec. 3102(c) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 289) added subsec. (l).

[34] 7 U.S.C. 5623. Sec. 244(a)(1)(A) of Public Law 104–127 (110 Stat. 967) struck out "**MARKET PROMOTION PROGRAM**" and inserted in lieu thereof "**MARKET ACCESS PROGRAM**" as the section catchline.

[35] Sec. 411(d) of Public Law 103–465 (108 Stat. 4963) struck out para. (2) in this subsection, struck out para. designation "(1)", and redesignated subparas. (A) through (C) as paras. (1) through (3). Para. (2), as previously amended by Public Law 103–66 (107 Stat. 330), formerly read as follows:

"(2) UNFAIR TRADE PRACTICES.—

"(A) REQUIREMENT.—Except as provided in subparagraph (B), the Secretary shall provide assistance under this section only to counter or offset the adverse effects of a subsidy, import quota, or other unfair trade practice of a foreign country.

"(B) EXCEPTION.—The Secretary shall waive the requirements of this paragraph in the case of activities conducted by small entities operating through the regional State-related organizations.".

(3) a private organization that promotes the export and sale of agricultural commodities if the Secretary determines that such organization would significantly contribute to United States export market development.

(e) APPROVED MARKETING PLAN.—

(1) IN GENERAL—A marketing plan submitted by an eligible trade organization under this section shall describe the advertising or other market oriented export promotion activities to be carried out by the eligible trade organization with respect to which assistance under this section is being requested.

(2) REQUIREMENTS.—To be approved by the Secretary, a marketing plan submitted under this subsection shall—

(A) specifically describe the manner in which assistance received by the eligible trade organization in conjunction with funds and services provided by the eligible trade organization will be expended in implementing the marketing plan;

(B) establish specific market goals to be achieved as a result of the market access program;[36] and

(C) contain whatever additional requirements are determined by the Secretary to be necessary.

(3) AMENDMENTS.—A marketing plan may be amended by the eligible trade organization at any time, with the approval of the Secretary.

(4) BRANDED PROMOTION.—An agreement entered into under this section may provide for the use of branded advertising to promote the sale of agricultural commodities in a foreign country under such terms and conditions as may be established by the Secretary.

(f) OTHER TERMS AND CONDITIONS.—

(1) MULTI-YEAR BASIS.—The Secretary may provide assistance under this section on a multi-year basis, subject to annual review by the Secretary for compliance with the approved marketing plan.

(2) TERMINATION OF ASSISTANCE.—The Secretary may terminate any assistance made, or to be made, available under this section if the Secretary determines that—

(A) the eligible trade organization is not adhering to the terms and conditions of the program established under this section;

(B) the eligible trade organization is not implementing the approved marketing plan or is not adequately meeting the established goals of the market access program;[36]

(C) the eligible trade organization is not adequately contributing its own resources to the market access program;[36] or[37]

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[36] Sec. 244(a)(1)(B) of Public Law 104–127 (110 Stat. 967) struck out "marketing promotion program" and inserted in lieu thereof "market access program" throughout sec. 203.

[37] Sec. 411(d)(2) of Public Law 103–465 (108 Stat. 4963) struck out subpara. (D), added "or" at the end of subpara. (C), and redesignated subpara. (E) as subpara. (D). Former subpara. (D) read as follows:

"(D) the unfair trade practice that was the basis of the provision of assistance has been discontinued and marketing assistance is no longer required to offset its effects; or".

(D)[37] the Secretary determines that termination of assistance in a particular instance is in the best interests of the program.

(3) EVALUATIONS.—The Secretary shall monitor the expenditure of funds received under this section by recipients of such funds. The Secretary shall make evaluations of such expenditure, including—

(A) an evaluation of the effectiveness of the program in developing or maintaining markets for United States agricultural commodities;

(B) an evaluation of whether assistance provided under this section is necessary to maintain such markets; and

(C) a thorough accounting of the expenditure of such funds by the recipient.

The Secretary shall make an initial evaluation of expenditures of a recipient not later than 15 months after the initial provision of funds to the recipient.

(4)[38] USE OF FUNDS.—Funds made available to carry out this section—

(A) shall not be used to provide direct assistance to any foreign for-profit corporation for the corporation's use in promoting foreign-produced products;

(B) shall not be used to provide direct assistance to any for-profit corporation that is not recognized as a small-business concern described in section 3(a) of the Small Business Act (15 U.S.C. 632(a)), excluding—

(i) a cooperative;

(ii) an association described in the first section of the Act entitled "An Act To authorize association of producers of agricultural products", approved February 18, 1922 (7 U.S.C. 291); and

(iii) a nonprofit trade association; and

(C) may be used by a United States trade association, cooperative, or small business for individual branded promotional activity related to a United States branded product, if the beneficiaries of the activity have provided funds for the activity in an amount that is at least equivalent to the amount of assistance provided under this section.

(g) LEVEL OF MARKETING ASSISTANCE.—

(1) IN GENERAL.—The Secretary shall justify in writing the level of assistance provided to an eligible trade organization under the program under this section and the level of cost-sharing required of such organization.

(2) LIMITATION.—Assistance provided under this section for activities described in subsection (e)(4) shall not exceed 50 percent of the cost of implementing the marketing plan, except that the Secretary may determine not to apply such limitation in the case of agricultural commodities with respect to which there has been a favorable decision by the United States Trade Representative under section 301 of the Trade Act of 1974. Criteria for determining that the limitation shall not apply shall be consistent and documented.

[38] Sec. 244(b) of Public Law 104–127 (110 Stat. 968) added para. (4).

(3) STAGED REDUCTION IN ASSISTANCE.—In the case of participants that received assistance under section 1124 of the Food Security Act of 1985 prior to November 28, 1990,[39] and with respect to which assistance under this section would be limited under paragraph (2), any such reduction in assistance shall be phased down in equal increments over a 5-year period.

SEC. 204.[40] BARTER OF AGRICULTURAL COMMODITIES.

(a) IN GENERAL.—The Secretary or the Commodity Credit Corporation may provide eligible commodities in barter for foreign products under such terms and conditions as the Secretary or the Corporation shall prescribe.

(b) ELIGIBLE COMMODITIES.—Unless otherwise specified, eligible commodities shall include—

(1) agricultural commodities acquired by the Commodity Credit Corporation through price support operations; and

(2) agricultural commodities acquired by the Secretary or the Commodity Credit Corporation in the normal course of business and available for disposition.

(c) BARTER BY EXPORTERS OF AGRICULTURAL COMMODITIES.—

(1) PURPOSE.—The Secretary or the Commodity Credit Corporation shall encourage exporters of agricultural commodities to barter such commodities for foreign products—

(A) to acquire such foreign products needed by such exporters; and

(B) to develop, maintain, or expand foreign markets for United States agricultural exports.

(2) ELIGIBLE ACTIVITIES.—The Secretary or the Commodity Credit Corporation may provide eligible commodities to exporters to assist such exporters in barter transactions.

(3) TECHNICAL ASSISTANCE.—The Secretary or the Commodity Credit Corporation shall provide technical advice and assistance relating to the barter of agricultural commodities to any United States exporter who requests such advice or assistance.

(d) TRANSFER OF FOREIGN PRODUCTS TO OTHER GOVERNMENT AGENCIES.[41]—The Secretary or the Commodity Credit Corporation may transfer any foreign products that the Secretary or such Corporation obtains through barter activities to other Government[42] agencies if the Corporation receives assurances that it will receive full reimbursement from the agency within the same fiscal year in which such transfer occurs.

(e) CORPORATION AUTHORITY NOT LIMITED.—Nothing contained in this section shall limit the authority of the Commodity Credit Corporation to acquire, hold, or dispose of such foreign materials as such Corporation determines appropriate in carrying out the functions and protecting the assets of the Corporation.

(f) PROHIBITED ACTIVITIES.—The Secretary or the Commodity Credit Corporation shall take reasonable precautions to prevent the

[39] Sec. 309 of Public Law 102–237 (105 Stat. 1856) struck out "the date of enactment of this Act" and inserted in lieu thereof "November 28, 1990,".

[40] 7 U.S.C. 5624.

[41] Sec. 320(1) of Public Law 102–237 (105 Stat. 1857) struck out "Agency or Private Parties" from the heading and inserted in lieu thereof "Agencies".

[42] Sec. 320(2) of Public Law 102–237 (105 Stat. 1857) capitalized "government".

misuse of eligible commodities in a barter or exchange program, including activities that—

(1) displace or interfere with commercial sales of United States agricultural commodities that otherwise might be made;

(2) unduly disrupt world prices of agricultural commodities or the normal patterns of commercial trade with recipient countries; or

(3) permit the resale or transshipment of eligible commodities to countries other than the intended recipient country.

SEC. 205.[43] COMBINATION OF PROGRAMS.

The Commodity Credit Corporation may carry out a program under which commercial export credit guarantees available under section 202 are combined with direct credits from the Commodity Credit Corporation under section 201 to reduce the effective rate of interest on export sales of agricultural commodities.

SUBTITLE B—IMPLEMENTATION

SEC. 211.[44] FUNDING LEVELS.

(a) DIRECT CREDIT PROGRAMS.—The Commodity Credit Corporation may make available for each fiscal year such funds of the Commodity Credit Corporation as it determines necessary to carry out any direct credit program established under section 201.

(b)[45] EXPORT CREDIT GUARANTEE PROGRAMS.—

(1) EXPORT CREDIT GUARANTEES.—The Commodity Credit Corporation shall make available for each of fiscal years 1996 through 2007[46] not less than $5,500,000,000 in credit guarantees under subsections (a) and (b) of section 202.

(2) LIMITATION ON ORIGINATION FEE.—Notwithstanding any other provision of law, the Secretary may not charge an origination fee with respect to any credit guarantee transaction under section 202(a) in excess of an amount equal to 1 percent of the amount of credit to be guaranteed under the transaction, except with respect to an export credit guarantee transaction pursuant to section 1542(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 7 U.S.C. 5622 note).

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[43] 7 U.S.C. 5625.

[44] 7 U.S.C. 5641.

[45] Sec. 243(b) of Public Law 104–127 (110 Stat. 967) struck out subsec. (b) and inserted a new subsec. (b). It formerly read as follows:

"(b) EXPORT CREDIT GUARANTEE PROGRAMS.—

"(1) SHORT-TERM GUARANTEES.—

"(A) MINIMUM AMOUNTS.—The Commodity Credit Corporation shall make available for each of the fiscal years 1991 through 1995 not less than $5,000,000,000 in credit guarantees under section 202(a).

"(B) LIMITATION ON ORIGINATION FEE.—Notwithstanding any other provision of law, the Secretary may not charge an origination fee with respect to any credit guarantee transaction under section 202(a) in excess of an amount equal to one percent of the amount of credit extended under the transaction.

"(2) INTERMEDIATE-TERM CREDIT GUARANTEES.—The Commodity Credit Corporation shall make available for each of the fiscal years 1991 through 1995 not less than $500,000,000 in credit guarantees under section 202(b).".

[46] Sec. 3102(d) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 289) struck out "2002" and inserted in lieu thereof "2007".

(c)[47, 48] MARKETING ACCESS PROGRAMS.—

(1) IN GENERAL.—The Commodity Credit Corporation or the Secretary shall make available for market access activities[49] authorized to be carried out by the Commodity Credit Corporation under section 203—

(A)[50] in addition to any funds that may be specifically appropriated to implement a market access program, not more than $90,000,000 for fiscal year 2001, $100,000,000 for fiscal year 2002, $110,000,000 for fiscal year 2003, $125,000,000 for fiscal year 2004, $140,000,000 for fiscal year 2005, and $200,000,000 for each of fiscal years 2006 and 2007, of the funds of, or an equal value of commodities owned by, the Commodity Credit Corporation; and

(B)[48] any funds that may be specifically appropriated to carry out a market access program[51] under section 203.

(2)[52] PROGRAM PRIORITIES.—In providing any amount of funds made available under paragraph (1)(A) for any fiscal year that is in excess of the amount made available under paragraph (1)(A) for fiscal year 2001, the Secretary shall, to the maximum extent practicable—

(A) give equal consideration to—

(i) proposals submitted by organizations that were participating organizations in prior fiscal years; and

(ii) proposals submitted by eligible trade organizations that have not previously participated in the program established under this title; and

(B) give equal consideration to—

(i) proposals submitted for activities in emerging markets; and

(ii) proposals submitted for activities in markets other than emerging markets.

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[47] Sec. 244(a)(2)(B)(i) of Public Law 104–127 (110 Stat. 968) struck out "MARKETING PROMOTION PROGRAMS" and inserted in lieu thereof "MARKET ACCESS PROGRAMS" in the subsection heading.

[48] Sec. 3103(2) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 289) restructured subsec. (c) by inserting para. designation and text "(1) In general—", redesignating former paras. (1) and (2) as subparas. (A) and (B) under newly formed para. (1), and adding new para. (2). That section also amended and restated subpara. (A) (as redesignated).

[49] Sec. 244(a)(2)(B)(ii) of Public Law 104–127 (110 Stat. 968) struck out "market promotion activities" and inserted in lieu thereof "market access activities".

[50] Amended and restated by sec. 3103(3) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 289). Had previously read, as redesignated and amended, as follows:

"(A) in addition to any funds that may be specifically appropriated to implement a market access program, not less than $200,000,000 for each of the fiscal years 1991 through 1993, not less than $110,000,000 for each of the fiscal years 1994 through 1995, and not more than $90,000,000 for each of the fiscal years 1996 through 2002, of the funds of, or an equal value of commodities owned by, the Commodity Credit Corporation; and".

[51] Sec. 244(a)(2)(B)(iii) of Public Law 104–127 (110 Stat. 968) struck out "marketing development program" and inserted in lieu thereof "market access program".

[52] Sec. 3103(4) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 289) added para. (2).

TITLE III—EXPORT ENHANCEMENT PROGRAM[53]

SEC. 301.[54] EXPORT ENHANCEMENT PROGRAM.

(a)[55] IN GENERAL.—The Commodity Credit Corporation shall carry out an export enhancement program in accordance with this section to encourage the commercial sale of United States agricultural commodities in world markets at competitive prices. The program shall be carried out in a market sensitive manner. Activities under the program shall not be limited to responses to unfair trade practices.

(b) EXPORT BONUS.—

(1) IN GENERAL.—In carrying out the program established under this section, the Commodity Credit Corporation may—

(A) make agricultural commodities, acquired by the Commodity Credit Corporation, available to exporters, users, processors, or foreign purchasers at no cost either directly or through the issuance of commodity certificates; and

(B) make cash payments to exporters, users, and processors.

(2) CALCULATION OF BONUS LEVELS.—The Commodity Credit Corporation shall—

(A) maintain an established procedure for evaluating program bonus requests, with guidelines for determining prevailing market prices for targeted commodities and destinations to be used in the calculation of acceptable bonus levels;

(B) use a clear set of established procedures for measuring transportation and incidental costs to be used in the calculation of acceptable bonus levels and for determining the amount of such costs actually incurred; and

(C) maintain consistent and effective controls and procedures for auditing and reviewing payment of bonuses and for securing refunds where appropriate.

(3) DISCLOSURE OF INFORMATION.—The Secretary may, notwithstanding the provisions of section 552 of title 5, United States Code, provide for withholding from the public the procedures and guidelines established under paragraphs (2) (A) and (B) if the Secretary determines that release of such information would adversely affect the operation of the program. Nothing in this paragraph shall be construed to authorize the withholding of information, including such procedures and guidelines, from the Congress.

(4) COMPETITIVE DISADVANTAGE.—The Secretary shall take such action as is necessary to ensure that equal treatment is provided to domestic and foreign purchasers and users of agricultural commodities in any case in which the importation of

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[53] Sec. 411(a)(2) of Public Law 103–465 (108 Stat. 4962) struck out "RESPONSE TO UNFAIR TRADE PRACTICES" and inserted in lieu thereof "EXPORT ENHANCEMENT PROGRAM".

[54] 7 U.S.C. 5651.

[55] Sec. 411(a)(3) of Public Law 103–465 (108 Stat. 4963) amended and restated subsec. (a). It formerly read, as amended by sec. 709(b)(1) of the FREEDOM Support Act, as follows:

"(a) IN GENERAL.—The Commodity Credit Corporation shall carry out in accordance with this section a program to discourage unfair trade practices by making United States agricultural commodities, including processed agricultural products and high-value agricultural products, competitive.".

a manufactured product made, in whole or in part, from a commodity made available for export under this section would place domestic users of the commodity at a competitive disadvantage.

(5) DIFFERENT COMMODITIES.—The Commodity Credit Corporation may provide to an exporter, user, or processor, or foreign purchaser, under the program established under this section, agricultural commodities of a kind different than the agricultural commodity involved in the transaction for which assistance under this section is being provided.

(6) OTHER EXPORT PROGRAMS.—The Commodity Credit Corporation may provide bonuses under this section in conjunction with other export promotion programs conducted by the Secretary or the Commodity Credit Corporation.

(7) AVOIDANCE OF PREFERENTIAL APPLICATION.—When using the authorities of this section to promote the exporting of wheat, the Secretary shall make reasonable efforts to avoid giving a preference to one class of wheat disproportionately more than another class.

(8) DISPLACEMENT.—The Secretary shall avoid the displacement of usual marketings of United States agricultural commodities in carrying out this section.

(c) PRIORITY IN THE CASE OF LIVESTOCK.—In the case of proposals for bonuses for dairy cattle or other appropriate livestock, the Commodity Credit Corporation shall give priority to proposals that include, in connection with the purchase of the livestock, appropriate herd management training, veterinary services, nutritional training, and other technical assistance necessary for the adaptation of the livestock to foreign environments.

(d) INAPPLICABILITY OF PRICE RESTRICTIONS.—Any price restrictions that otherwise may be applicable to dispositions of agricultural commodities owned by the Commodity Credit Corporation shall not apply to agricultural commodities provided under this section.

(e)[56] FUNDING LEVELS.—

(1)[57] IN GENERAL.—The Commodity Credit Corporation shall make available to carry out the program established under this section not more than—

(A) $350,000,000 for fiscal year 1996;
(B) $250,000,000 for fiscal year 1997;
(C) $500,000,000 for fiscal year 1998;
(D) $550,000,000 for fiscal year 1999;
(E) $579,000,000 for fiscal year 2000;
(F) $478,000,000 for fiscal year 2001; and

[56] Sec. 754 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2003 (division A of Public Law 108–7; 117 Stat. 45), provided the following:

"SEC. 754. Of the funds made available for the Export Enhancement Program, pursuant to section 301(e) of the Agricultural Trade Act of 1978, as amended by Public Law 104–127, not more than $28,000,000 shall be available in fiscal year 2003.".

[57] Sec. 245(a) of Public Law 104–127 (110 Stat. 968) amended and restated para. (1), effective October 1, 1995. It formerly read as follows:

"IN GENERAL.—The Commodity Credit Corporation shall make available for each of the fiscal years 1991 through 2001 not less than $500,000,000 of the funds or commodities of the Commodity Credit Corporation to carry out the program established under this section.".

The paragraph was previously, amended by sec. 709(b)(2)(A) of Public Law 102–511 (106 Stat. 3352) and sec. 411(a)(4) of Public Law 103–465 (108 Stat. 4963).

(G) $478,000,000 for each of fiscal years 2002 through 2007.[58]

(2)[59] SET-ASIDES.—(A) For each fiscal year, the Corporation shall, to the extent practicable and subject to subparagraph (B), ensure that no less than 25 percent of the total of—

(i) the funds expended, and

(ii) the value of any commodities made available,

under this section in connection with sales of agricultural commodities to the independent states of the former Soviet Union is used to promote the export of processed and high-value United States agricultural products and that the balance of the funds expended and commodities made available under this section in connection with such sales is used to promote the export of bulk or raw United States agricultural commodities.

(B) The 25 percent requirement of subparagraph (A) shall apply for a fiscal year only to the extent that the percentage of the total of—

(i) the funds expended, and

(ii) the value of commodities made available,

for that fiscal year under this section to promote the export to all countries of processed and high-value United States agricultural products is less than 15 percent.

(f)[60] EFFECT ON THIRD COUNTRIES.—It is not the purpose of the program established under this section to affect adversely the exports of fairly traded agricultural commodities.

(g)[61] CONSISTENCY WITH INTERNATIONAL OBLIGATIONS.—Notwithstanding any other provisions of this section, the Commodity Credit Corporation shall administer and carry out the program authorized by this section in a manner consistent, as determined by the President, with the obligations undertaken by the United States set forth in the Uruguay Round Agreements.

(h)[62] PRIORITY FUNDING FOR INTERMEDIATE PRODUCTS.—

(1) IN GENERAL.—Effective beginning in fiscal year 1996, and consistent, as determined by the Secretary, with the obligations and reduction commitments undertaken by the United States under the Uruguay Round Agreements, the Secretary may make available not more than $100,000,000 for each fiscal year under this section for the sale of intermediate agricultural products in sufficient quantities to attain the volume of export sales consistent with the volume of intermediate agricultural products exported by the United States during the Uruguay Round base period years of 1986 through 1990.

(2) ADDITIONAL ASSISTANCE.—Notwithstanding paragraph (1), if the export sale of any intermediate agricultural product attains the volume of export sales consistent with the volume of the intermediate agricultural product exported by the

[58] Sec. 3104(a) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 290) struck out "fiscal year 2002" and inserted in lieu thereof "each of fiscal years 2002 through 2007".

[59] Sec. 709(b)(2)(B) of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3352) added para. (2).

[60] This subsection was originally enacted as subsec. (g). Sec. 311 of Public Law 102–237 (105 Stat. 1856) redesignated this as subsec. (f).

[61] Sec. 411(a)(4)(B) of Public Law 103–465 (108 Stat. 4963) added subsec. (g).

[62] Sec. 245(b) of Public Law 104–127 (110 Stat. 969) added subsec. (h).

United States during the Uruguay Round base period years of 1986 through 1990, the Secretary may make available additional amounts under this section for the encouragement of export sales of the intermediate agricultural product.

SEC. 302.[63] RELIEF FROM UNFAIR TRADE PRACTICES.

(a) USE OF PROGRAMS.—

(1) IN GENERAL.—The Secretary may, for each article described in paragraph (2), make available some or all of the commercial export promotion programs of the Department of Agriculture and the Commodity Credit Corporation to help mitigate or offset the effects of the unfair trade practice serving as the basis for the proceeding described in paragraph (2).

(2) COMMODITIES SPECIFIED.—Paragraph (1) shall apply in the case of articles for which the United States has instituted, under any international trade agreement, any dispute settlement proceeding based on an unfair trade practice if such proceeding has been prevented from progressing to a decision by the refusal of the party maintaining the unfair trade practice to permit the proceeding to progress.

(b) CONSULTATIONS REQUIRED.—For any article described in subsection (a)(2), the Secretary shall—

(1) promptly consult with representatives of the industry producing such articles and other allied groups or individuals regarding specific actions or the development of an integrated marketing strategy utilizing some or all of the commercial export programs of the Department of Agriculture and the Commodity Credit Corporation to help mitigate or offset the effects of the unfair trade practice identified in subsection (a)(2); and

(2) ascertain and take into account the industry preference for the practical use of available commercial export promotion programs in implementing subsection (a)(1).

SEC. 303.[64] EQUITABLE TREATMENT OF HIGH-VALUE AND VALUE-ADDED UNITED STATES AGRICULTURAL COMMODITIES.

In the case of any program, such as that established under section 301, operated by the Secretary or the Commodity Credit Corporation during the fiscal years 1991 through 1995, for the purpose of discouraging unfair trade practices, the Secretary shall establish as an objective to expend annually at least 25 percent of the total funds available (or 25 percent of the value of any commodities employed) for program activities involving the export sales of high-value agricultural commodities and value-added products of United States agricultural commodities.

[63] 7 U.S.C. 5652.
[64] 7 U.S.C. 5653.

TITLE IV—GENERAL PROVISIONS

SUBTITLE A—PROGRAM CONTROLS

SEC. 401.[65] PROGRAM CONTROLS FOR EXPORT PROGRAMS.

(a)[66] ARRIVAL CERTIFICATION.—With respect to a commodity provided, or for which financing or a credit guarantee or other assistance is made available, under a program authorized in section 201, 202, or 301, the Commodity Credit Corporation shall require the exporter of the commodity to maintain records of an official or customary commercial nature or other documents as the Secretary may require, and shall allow representatives of the Commodity Credit Corporation access to the records or documents as needed, to verify the arrival of the commodity in the country that is the intended destination of the commodity.

(b) DIVERSION.—The unauthorized diversion of commodities under the programs authorized in sections 201, 202, and 301 is prohibited. The Commodity Credit Corporation shall establish procedures providing for the annual audit of a sufficient number of export transactions under such programs to ensure that the agricultural commodities that were the subject of such transactions arrived in the country of destination as provided in the sales agreement.

(c) GOOD FAITH.—The failure of an exporter, seller or other person to comply with the provisions of this section shall not affect the validity of any credit guarantee or other obligation of the Commodity Credit Corporation under the programs under this Act with respect to any exporter, seller, or person who had no knowledge of such failure to comply at the time such exporter, seller, or person was assigned the credit guarantee or at the time the Corporation entered into such obligation.

SEC. 402.[67] COMPLIANCE PROVISIONS.

(a) RECORDS.—

(1) IN GENERAL.—In the administration of the programs established under sections 201, 202, 203, and 301 the Secretary shall require by regulation each exporter or other participant under the program to maintain all records concerning a program transaction for a period of not to exceed 5 years after completion of the program transaction, and to permit the Secretary to have full and complete access, for such 5-year period, to such records.

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[65] 7 U.S.C. 5661.

[66] Sec. 246 of Public Law 104–127 (110 Stat. 969) amended and restated subsec. (a). It formerly read as follows:

"(a) ARRIVAL CERTIFICATION.—With respect to commodities or other assistance provided, or for which financing or credit guarantees are made available, under the programs authorized in sections 201, 202, and 301, the Commodity Credit Corporation shall—

"(1) require the exporter to maintain records of an official or customary commercial nature or other documents as the Secretary may require, and have access to such documents or records as needed to verify the arrival of agricultural commodities exported in connection with such programs in the countries that were the intended destination of such commodities; and

"(2) obtain certification from the seller or exporter of record of such commodities, that there were no corrupt payments or extra sales services, or other items extraneous to the transaction provided, financed, or guaranteed in connection with the transaction, and that the transaction complied with applicable United States law.".

[67] 7 U.S.C. 5662.

(2)[68] CONFIDENTIALITY.—The personally identifiable information contained in reports under subsection (a) may be withheld in accordance with section 552(b)(4) of title 5, United States Code. Any officer or employee of the Department of Agriculture who knowingly discloses confidential information as defined by section 1905 of title 18, United States Code, shall be subject to section 1905 of title 18, United States Code. Nothing in this subsection shall be construed to authorize the withholding of information from Congress.

(b) VIOLATION.—If any exporter, assignee, or other participant has engaged in fraud with respect to the programs authorized under this Act, or has otherwise violated program requirements under this Act, the Commodity Credit Corporation may—

(1) hold such exporter, assignee, or participant liable for any and all losses to the Corporation resulting from such fraud or violation;

(2) require a refund of any assistance provided to such exporter, assignee, or participant plus interest, as determined by the Secretary; and

(3) collect liquidated damages from such exporter, assignee, or participant in an amount determined appropriate by the Secretary.

The provisions of this subsection shall be without prejudice to any other remedy that is available under any other provision of law.

(c) SUSPENSION AND DEBARMENT.—The Commodity Credit Corporation may suspend or debar for 1 or more years any exporter, assignee, or other participant from participation in one or more of the programs authorized by this Act if the Corporation determines, after opportunity for a hearing, that such exporter, assignee, or other participant has violated the terms and conditions of the program or of this Act and that the violation is of such a nature as to warrant suspension or debarment.

(d) FALSE CERTIFICATIONS.—The provisions of section 1001 of title 18, United States Code, shall apply to any false certifications issued under this Act.

SEC. 403.[69] DEPARTMENTAL ADMINISTRATION SYSTEM.

(a) IN GENERAL.—With respect to each commercial export promotion program of the Department of Agriculture or the Commodity Credit Corporation, the Secretary shall—

(1) specify by regulation the criteria used to evaluate and approve proposals for that program;

(2) establish a centralized system to permit the Foreign Agricultural Service to provide the history and current status of any proposal;

(3) provide for regular audits of program transactions to determine compliance with program objectives and requirements; and

[68] Sec. 247 of Public Law 104–127 (110 Stat. 969) struck out para. (2) and redesignated para. (3) as para. (2). Former para. (2) read as follows:

"(2) NONPROGRAM TRANSACTIONS.—The Secretary may require by regulation an exporter or other participant in the programs to make records available to the Secretary with respect to non-program transactions if such records would pertain directly to the review of program-related transactions undertaken by such exporter or participant, as determined by the Secretary.".

[69] 7 U.S.C. 5663.

(4) establish criteria to evaluate loans eligible for guarantees by the Commodity Credit Corporation, so as to ensure that the Corporation does not assume undue risk in providing such guarantees.

(b) ACCESSIBILITY OF INFORMATION.—Information pertaining to the status of a particular proposal shall be retrievable within the central system by appropriate categories, as determined appropriate by the Secretary.

SEC. 404.[70] **REGULATIONS.** * * * [Repealed—1996]

SUBTITLE B—MISCELLANEOUS PROVISIONS

SEC. 411.[71] **AGRICULTURAL EMBARGO PROTECTION.**

(a) PREREQUISITES; SCOPE OF COMPENSATION.—Notwithstanding any other provision of law, if—

(1) the President or other member of the executive branch of the Federal Government causes the export of any agricultural commodity to any country or area of the world to be suspended or restricted for reasons of national security or foreign policy under the Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.) or under any other provision of law;

(2) such suspension or restriction of the export of such agricultural commodity is imposed other than in connection with a suspension or restriction of all exports from the United States to such country or area of the world; and

(3) sales of such agricultural commodity for export from the United States to such country or area of the world during the year preceding the year in which the suspension or restriction is imposed exceeds 3 percent of the total sales of such commodity for export from the United States to all foreign countries during the year preceding the year in which the suspension or restriction is in effect;

the Secretary shall compensate producers of the commodity involved by making payments available to such producers, as provided in subsection (b) of this section.

(b) AMOUNT OF PAYMENTS.—If the Secretary makes payments available to producers under subsection (a), the amount of such payment shall be determined—

(1) in the case of an agricultural commodity for which payments are authorized to be made to producers under Title I of the Agricultural Act of 1949 (7 U.S.C. 1441 et seq.), by multiplying—

(A) the farm program payment yield for the producer or the yield established for the farm for the commodity involved; by

(B) the crop acreage base established for the commodity; by

(C) the amount by which the average market price per unit of such commodity received by producers during the

[70] Formerly at 7 U.S.C. 5664. Sec. 248 of Public Law 104–127 (110 Stat. 969) repealed sec. 404. It had read as follows:

"Not later than 180 days after November 28, 1990, the Secretary shall issue regulations implementing the provisions of this Act, including specific regulations pertaining to program compliance requirements under sections 401 and 402.".

[71] 7 U.S.C. 5671.

60-day period immediately following the date of the imposition of the suspension or restriction is less than 100 percent of the parity price for such commodity, as determined by the Secretary on the date of the imposition of the suspension or restriction; or

(2) in the case of other agricultural commodities for which price support is authorized for producers under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), by multiplying the amount by which the average market price per unit of such commodity received by the producers during the 60-day period immediately following the date of the imposition of the suspension or restriction is less than 100 percent of the parity price for such commodity, as determined by the Secretary on the date of the imposition of the suspension or restriction, by the quantity of such commodity sold by the producer during the period that the suspension or restriction is in effect.

(c) TIME FOR PAYMENTS.—Payments under paragraph (1) of subsection (b) shall be made for each marketing year or part thereof during which the suspension or restriction is in effect and shall be made in equal amounts at 90-day intervals, beginning 90 days after the date of the imposition of the suspension or restriction.

(d) COMMODITY CREDIT CORPORATION.—The Secretary shall use the Commodity Credit Corporation in carrying out the provisions of this section.

(e) REGULATIONS.—The Secretary may issue such regulations as are determined necessary to carry out this section.

SEC. 412.[72] DEVELOPMENT OF PLANS TO ALLEVIATE ADVERSE IMPACT OF EMBARGOES.

To alleviate, to the maximum extent possible, the adverse impact on farmers, elevator operators, common carriers, and exporters of agricultural commodities of the President or other member of the executive branch of the Federal Government causing the export of any agricultural commodity to any country or area of the world to be suspended or restricted, the Secretary of Agriculture shall—

(1) develop a comprehensive contingency plan that shall include—

(A) an assessment of existing farm programs with a view to determining whether such programs are sufficiently flexible to enable the Secretary to efficiently and effectively offset the adverse impact of such a suspension or restriction on farmers, elevator operators, common carriers, and exporters of commodities provided for under such programs;

(B) an evaluation of the kinds and availability of information needed to determine, on an emergency basis, the extent and severity of the impact of such a suspension or restriction on producers, elevator operators, common carriers, and exporters; and

(C) the development of criteria for determining the extent, if any, to which the impact of such a suspension or restriction should be offset in the case of each of the sectors referred to in paragraph (1)(B);

[72] 7 U.S.C. 5672.

(2) for any suspension or restriction for which compensation is not provided under section 411, prepare and submit to the appropriate Committees of Congress such recommendations for changes in existing agricultural programs, or for new programs, as the Secretary considers necessary to handle effectively, efficiently, economically, and fairly the impact of any such suspension or restriction;

(3) for any suspension or restriction for which compensation is provided under section 411, prepare and submit to the appropriate Committees of Congress a plan for implementing and administering section 411; and

(4) require the Commodity Credit Corporation, prior to such Corporation purchasing any contracts for the purpose of offsetting the impact of a commodity suspension or restriction, to—

(A) prepare an economic justification for each commodity involved in the suspension or restriction to determine if such a purchase is necessary;

(B) estimate any suspension- or restriction-related benefits and detrimental effects to the exporters, and use both estimates in determining the extent, if any, Federal assistance is needed; and

(C) limit its purchases to only those types and grades of commodities suspended or restricted from shipment and make such purchases at prices at or near the current market prices.

SEC. 413.[73] CONTRACTING AUTHORITY TO EXPAND AGRICULTURAL EXPORT MARKETS.

(a) IN GENERAL.—The Secretary may contract with individuals for services to be performed outside the United States as the Secretary determines necessary or appropriate for carrying out programs and activities to maintain, develop, or enhance export markets for United States agricultural commodities and products.

(b) NOT EMPLOYEES OF THE UNITED STATES.—Individuals referred to in subsection (a) shall not be regarded as officers or employees of the United States.

SEC. 414.[74] TRADE CONSULTATIONS CONCERNING IMPORTS.

(a) CONSULTATION BETWEEN AGENCIES.—The Secretary shall require consultation between the Administrator of the Service and the heads of other appropriate agencies and offices of the Department of Agriculture, including the Administrator of the Animal and Plant Health Inspection Service, prior to relaxing or removing any restriction on the importation of any agricultural commodity into the United States.

(b) CONSULTATION WITH TRADE REPRESENTATIVE.—The Secretary shall consult with the United States Trade Representative prior to relaxing or removing any restriction on the importation of any agricultural commodity or a product thereof into the United States.

(c)[75] MONITORING COMPLIANCE WITH SANITARY AND PHYTOSANITARY MEASURES.—The Secretary shall monitor the compliance of World Trade Organization member countries with the

[73] 7 U.S.C. 5673.
[74] 7 U.S.C. 5674.
[75] Sec. 242(b) of Public Law 104–127 (110 Stat. 965) added subsec. (c).

sanitary and phytosanitary measures of the Agreement on Agriculture of the Uruguay Round of Multilateral Trade Negotiations of the General Agreement on Tariffs and Trade. If the Secretary has reason to believe that any country may have failed to meet the commitment on sanitary and phytosanitary measures under the Agreement in a manner that adversely impacts the exports of a United States agricultural commodity, the Secretary shall—

(1) provide such information to the United States Trade Representative of the circumstances surrounding the matter arising under this subsection; and

(2) with respect to any such circumstances that the Secretary considers to have a continuing adverse effect on United States agricultural exports, report to the Committee on Agriculture, and the Committee on Ways and Means, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry, and the Committee on Finance, of the Senate—

(A) that a country may have failed to meet the sanitary and phytosanitary commitments; and

(B) any notice given by the Secretary to the United States Trade Representative.

SEC. 415.[76] TECHNICAL ASSISTANCE IN TRADE NEGOTIATIONS.

The Secretary shall provide technical services to the United States Trade Representative on matters pertaining to agricultural trade and with respect to international negotiations on issues related to agricultural trade.

SEC. 416.[77] LIMITATION ON USE OF CERTAIN EXPORT PROMOTION PROGRAMS.

(a) IN GENERAL.—The Secretary may provide that a person shall be ineligible for participation in an export program established under title I of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.), or in any other export credit, credit guarantee, bonus, or other export program carried out through, or administered by, the Commodity Credit Corporation or carried out with funds made available pursuant to section 32 of the Act entitled "An Act to amend the Agricultural Adjustment Act, and for other purposes", approved August 24, 1935 (7 U.S.C. 612c) with respect to the export of any agricultural commodity or product that has been or will be used as the basis for a claim of a refund, as drawback, pursuant to section 313(j)(2) of the Tariff Act of 1930 (19 U.S.C. 1313(j)(2)), of any duty, tax, or fee imposed under Federal law on an imported commodity or product.

(b) VEGETABLE OIL.—A person shall be ineligible for participation in any of the export programs referred to in subsection (a) with respect to the export of vegetable oil or a vegetable oil product that has been or will be used as the basis for a claim of a refund, as a drawback, pursuant to section 313 of the Tariff Act of 1930, of any duty, tax, or fee imposed under Federal law on an imported commodity or product.

(c) CERTIFICATION.—If the Secretary takes action under the authority granted under subsection (a), a person applying to export any agricultural commodity under the export programs referred to

[76] 7 U.S.C. 5675.
[77] 7 U.S.C. 5676.

in subsection (a) shall certify that none of the commodity has been or will be used as the basis of a claim for any refund specified in subsection (a), except that regardless of whether the Secretary takes action under the authority granted under subsection (a), a person applying to export any vegetable oil or vegetable oil product under such programs shall certify that none of the vegetable oil or vegetable oil product has been or will be used as the basis of a claim for any refund specified in subsection (b).

(d) REGULATIONS.—The Secretary shall promulgate regulations to carry out this section.

(e) APPLICABILITY.—This section shall not apply to quantities of agricultural commodities and products with respect to which an exporter has entered into a contract, prior to November 28, 1990,[78] for an export sale.

SEC. 417.[79] TRADE COMPENSATION AND ASSISTANCE PROGRAMS.

(a) IN GENERAL.—Except as provided in subsection (f), notwithstanding any other provision of law, if, after the date of enactment of this section, the President or any other member of the executive branch causes exports from the United States to any country to be unilaterally suspended for reasons of national security or foreign policy, and if within 90 days after the date on which the suspension is imposed on United States exports no other country with an agricultural economic interest agrees to participate in the suspension, the Secretary shall carry out a trade compensation assistance program in accordance with this section (referred to in this section as a "program").

(b) COMPENSATION OR PROVISION OF FUNDS.—Under a program, the Secretary shall, based on an evaluation by the Secretary of the method most likely to produce the greatest compensatory benefit for producers of the commodity involved in the suspension—

(1) compensate producers of the commodity by making payments available to producers, as provided by subsection (c)(1); or

(2) make available an amount of funds calculated under subsection (c)(2), to promote agricultural exports or provide agricultural commodities to developing countries under any authorities available to the Secretary.

(c) DETERMINATION OF AMOUNT OF COMPENSATION OR FUNDS.—

(1) COMPENSATION.—If the Secretary makes payments available to producers under subsection (b)(1), the amount of the payment shall be determined by the Secretary based on the Secretary's estimate of the loss suffered by producers of the commodity involved due to any decrease in the price of the commodity as a result of the suspension.

(2) DETERMINATION OF AMOUNT OF FUNDS.—For each fiscal year of a program, the amount of funds made available under subsection (b)(2) shall be equal to 90 percent of the average annual value of United States agricultural exports to the country with respect to which exports are suspended during the most

[78] Sec. 313 of Public Law 102–237 (105 Stat. 1856) struck out "the effective date of this section" and inserted in lieu thereof "November 28, 1990".

[79] 7 U.S.C. 5677. Added by sec. 249 of Public Law 104–127 (110 Stat. 969).

recent 3 years prior to the suspension for which data are available.

(d) DURATION OF PROGRAM.—For each suspension of exports for which a program is implemented under this section, funds shall be made available under subsection (b) for each fiscal year or part of a fiscal year for which the suspension is in effect, but not to exceed 3 fiscal years.

(e) COMMODITY CREDIT CORPORATION.—The Secretary shall use funds of the Commodity Credit Corporation to carry out this section.

(f) EXCEPTION TO CARRYING OUT A PROGRAM.—This section shall not apply to any suspension of trade due to a war or armed hostility.

(g) PARTIAL YEAR EMBARGOES.—If the Secretary makes funds available under subsection (b)(2), regardless of whether an embargo is in effect for only part of a fiscal year, the full amount of funds as calculated under subsection (c)(2) shall be made available under a program for the fiscal year. If the Secretary determines that making the required amount of funds available in a partial fiscal year is impracticable, the Secretary may make all or part of the funds required to be made available in the following fiscal year (in addition to any funds otherwise required under a program to be made available in the following fiscal year).

(h) SHORT SUPPLY EMBARGOES.—If the President or any other member of the executive branch causes exports to be suspended based on a determination of short supply, the Secretary shall carry out section 1002 of the Food and Agriculture Act of 1977 (7 U.S.C. 1310).

TITLE V—FOREIGN AGRICULTURAL SERVICE

SEC. 501.[80] UNDER SECRETARY FOR INTERNATIONAL AFFAIRS AND COMMODITY PROGRAMS. * * * [Repealed—1994]

SEC. 502.[81] ADMINISTRATOR OF THE FOREIGN AGRICULTURAL SERVICE.

(a) ESTABLISHMENT.—There is hereby established in the Department of Agriculture the position of Administrator of the Foreign Agricultural Service.

(b) DUTIES.—The Administrator of the Foreign Agricultural Service is authorized to exercise such functions and perform such duties related to foreign agriculture, and shall perform such other duties, as may be required by law or prescribed by the Secretary of Agriculture.

(c) USE OF SERVICE.—In carrying out the duties under this section, the Administrator shall oversee the operations of the Foreign Agricultural Service, the General Sales Manager, and the Agricultural Attache Service.

[80] Formerly at 7 U.S.C. 5691. Sec. 225 of the Department of Agriculture Reorganization Act of 1994 (title II of Public Law 103–354; 108 Stat. 3213) authorized the Secretary of Agriculture to establish a position of Under Secretary of Agriculture for Farm and Foreign Agricultural Services, and repealed this section. See 7 U.S.C. 6931.

[81] 7 U.S.C. 5692.

SEC. 503.[82] **DUTIES OF THE FOREIGN AGRICULTURAL SERVICE.**

The Service shall assist the Secretary in carrying out the agricultural trade policy and international cooperation policy of the United States by—

(1) acquiring information pertaining to agricultural trade;

(2) carrying out market promotion and development activities;

(3) providing agricultural technical assistance and training; and

(4) carrying out the programs authorized under this Act, the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.), and other Acts.

SEC. 504.[83] **STAFF OF THE FOREIGN AGRICULTURAL SERVICE.**

(a) PERSONNEL OF THE SERVICE.—To ensure that the agricultural export programs of the United States are carried out in an effective manner, the authorized number of personnel for the Service shall not be less than 900 staff years each fiscal year.

(b) RANK OF FOREIGN AGRICULTURAL SERVICE OFFICERS IN FOREIGN MISSIONS.—Notwithstanding any other provision of law, the Secretary of State shall, on the request of the Secretary of Agriculture, accord the diplomatic title of Minister-Counselor to the senior Service officer assigned to any United States mission abroad. The number of Service officers holding such diplomatic title at any time may not exceed twelve.

SEC. 505.[84] **AUTHORIZATION OF APPROPRIATIONS.**

There are hereby authorized to be appropriated for the Service such sums as may be necessary to carry out the provisions of this title.

TITLE VI—REPORTS

SEC. 601.[85] * * * [Repealed—1996]

SEC. 602.[86] **EXPORT REPORTING AND CONTRACT SANCTITY.**

(a) EXPORT SALES REPORTS.—

(1) IN GENERAL.—All exporters of wheat and wheat flour, feed grains, oil seeds, cotton, beef,[87] and products thereof, and other commodities that the Secretary may designate produced[88] in the United States shall report to the Secretary of

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[82] 7 U.S.C. 5693. Sec. 250 of Public Law 104–127 (110 Stat. 971) amended and restated sec. 503. It formerly read as follows:

"SEC. 503. ESTABLISHMENT OF THE FOREIGN AGRICULTURAL SERVICE.

"The Service shall assist the Secretary in carrying out the agricultural trade policy of the United States by acquiring information pertaining to agricultural trade, carrying out market promotion and development activities, and implementing the programs authorized in this Act, the Agricultural Trade Development and Assistance Act of 1954, and other Acts.".

[83] 7 U.S.C. 5694.

[84] 7 U.S.C. 5695. Originally enacted as sec. 506, sec. 314 of Public Law 102–237 (105 Stat. 1856) redesignated this section as 505.

[85] Formerly at 7 U.S.C. 5711. Sec. 601, which had required the Secretary of Agriculture periodically to prepare a long-term agricultural trade strategy report, was repealed by sec. 2451(c)(1) of Public Law 104–127 (110 Stat. 964).

[86] 7 U.S.C. 5712.

[87] Sec. 921 of Public Law 106–78 (113 Stat. 1206) inserted ", beef," after "cotton".

[88] Sec. 327 of Public Law 102–237 (105 Stat. 1858) struck out "designate as produced" and inserted in lieu thereof "designate produced".

Agriculture, on a weekly basis, the following information regarding any contract for export sales entered into or subsequently modified in any manner during the reporting period:

(A) type, class, and quantity of the commodity sought to be exported;

(B) the marketing year of shipment; and

(C) destination, if known.

(2) CONFIDENTIALITY AND COMPILATION OF REPORTS.—Individual reports shall remain confidential[89] but shall be compiled by the Secretary and published in compilation form each week following the week of reporting.

(3) IMMEDIATE REPORTING.—All exporters of agricultural commodities produced in the United States shall, upon request of the Secretary, immediately report to the Secretary any information with respect to export sales of agricultural commodities and at such times as the Secretary may request. When the Secretary requires that such information be reported by exporters on a daily basis, the information compiled from individual reports shall be made available to the public daily.

(4) MONTHLY REPORTING PERMITTED.—The Secretary may, with respect to any commodity or type or class thereof during any period in which the Secretary determines that—

(A) there is a domestic supply of such commodity substantially in excess of the quantity needed to meet domestic requirements,

(B) total supplies of such commodity in the exporting countries are estimated to be in surplus,

(C) anticipated exports will not result in excessive drain on domestic supplies, and

(D) to require the reports to be made will unduly hamper export sales,

provide for such reports by exporters and publishing of such data to be on a monthly basis rather than on a weekly basis.

(b) FAILURE TO REPORT.—Any person who knowingly fails to make any report required under this section shall be fined not more than $25,000 or imprisoned for not more than 1 year, or both.

(c) CONTRACT SANCTITY.—Notwithstanding any other provision of law, the President shall not prohibit or curtail the export of any agricultural commodity under an export sales contract—

(1) that is entered into before the President announces an action that would otherwise prohibit or curtail the export of the commodity, and

(2) the terms of which require delivery of the commodity within 270 days after the date of the suspension of trade is imposed,

except that the President may prohibit or curtail the export of any agricultural commodity during a period for which the President has declared a national emergency or for which the Congress has declared war.

[89] Sec. 327(2) of Public Law 102–237 (105 Stat. 1858) struck out "in accordance with subsection (c)" following "confidential".

SEC. 603.[90] OTHER REPORTS TO CONGRESS.

Subject to section 217 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6917), the[91] Secretary shall, on a quarterly basis, prepare and submit to the Committee on Agriculture and the Committee on Foreign Affairs[92] of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report specifying the cumulative amount of export assistance provided by the Commodity Credit Corporation and the Secretary under the programs provided under this Act, the Commodity Credit Corporation Charter Act, and under the Agricultural Trade Development and Assistance Act of 1954 during the current fiscal year. Such information may be provided in individual reports, or in a consolidated report.[93]

TITLE VII—FOREIGN MARKET DEVELOPMENT COOPERATOR PROGRAM[94]

SEC. 701.[95] DEFINITION OF ELIGIBLE TRADE ORGANIZATION.

In this title, the term "eligible trade organization" means a United States trade organization that—

(1) promotes the export of 1 or more United States agricultural commodities or products; and

(2) does not have a business interest in or receive remuneration from specific sales of agricultural commodities or products.

SEC. 702.[96] FOREIGN MARKET DEVELOPMENT COOPERATOR PROGRAM.

(a) IN GENERAL.—The Secretary shall establish and, in cooperation with eligible trade organizations, carry out a foreign market development cooperator program to maintain and develop foreign markets for United States agricultural commodities and products, with a continued significant emphasis on the importance of the export of value-added United States agricultural products into emerging markets.[97]

(b) ADMINISTRATION.—Funds made available to carry out this title shall be used only to provide—

(1) cost-share assistance to an eligible trade organization under a contract or agreement with the organization; and

(2) assistance for other costs that are necessary or appropriate to carry out the foreign market development cooperator program, including contingent liabilities that are not otherwise funded.

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[90] 7 U.S.C. 5713.

[91] Sec. 251 of Public Law 104–127 (110 Stat. 971) struck out "The" and inserted in lieu thereof "Subject to section 217 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6917), the".

[92] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

[93] Sec. 241(c)(2) of Public Law 104–127 (110 Stat. 964) struck out "in a consolidated report, or in the Long-Term Agricultural Trade Strategy Report (and annual updates to such report) prepared under section 601", and inserted in lieu thereof ", or in a consolidated report".

[94] Sec. 252 of Public Law 104–127 (110 Stat. 971) added title VII, secs. 701–703.

[95] 7 U.S.C. 5721.

[96] 7 U.S.C. 5722.

[97] Sec. 3105(a)(1) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 290) added ", with a continued significant emphasis on the importance of the export of value-added United States agricultural products into emerging markets".

(c)[98] REPORT TO CONGRESS.—The Secretary shall annually submit to the Committee on Agriculture and the Committee on International Relations of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on activities under this section describing the amount of funding provided, the types of programs funded, the value-added products that have been targeted, and the foreign markets for those products that have been developed.

SEC. 703.[99] FUNDING.

(a) IN GENERAL.—To carry out this title, the Secretary shall use funds of the Commodity Credit Corporation, or commodities of the Commodity Credit Corporation of a comparable value, in the amount of $34,500,000 for each of fiscal years 2002 through 2007.

(b) PROGRAM PRIORITIES.—In providing any amount of funds or commodities made available under subsection (a) for any fiscal year that is in excess of the amount made available under this section for fiscal year 2001, the Secretary shall, to the maximum extent practicable—

(1) give equal consideration to—

(A) proposals submitted by organizations that were participating organizations in prior fiscal years; and

(B) proposals submitted by eligible trade organizations that have not previously participated in the program established under this title; and

(2) give equal consideration to—

(A) proposals submitted for activities in emerging markets; and

(B) proposals submitted for activities in markets other than emerging markets.

[98] Sec. 3105(a)(2) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 290) added subsec. (c).

[99] 7 U.S.C. 5723. Amended and restated by sec. 3105(b) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 291).

3. Agricultural Act of 1980 and Related Material

a. Agricultural Trade Suspension Adjustment Act of 1980

Partial text of Public Law 96–494 [H.R. 3765], 94 Stat. 2570, approved December 3, 1980, as amended by Public Law 97–98 [Agriculture and Food Act of 1981, S. 884], 95 Stat. 1213 at 1260, approved December 22, 1981; Public Law 104–127 [Federal Agriculture Improvement and Reform Act of 1996; H.R. 2854], 110 Stat. 888, approved April 4, 1996; Public Law 105–385 [Africa: Seeds of Hope Act of 1998; H.R. 4283], 112 Stat. 3460, approved November 13, 1998; and by Public Law 106–78 [Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2000; H.R. 1906], 113 Stat. 1135, approved October 22, 1999

AN ACT To increase the minimum price support loan rates for wheat, feed grains, and soybeans, to improve the farmer-held reserve program for wheat and feed grains, to establish a five-year food security wheat reserve, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Agricultural Act of 1980".

TITLE I—WALNUT AND OLIVE MARKETING ORDERS

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TITLE II—AGRICULTURAL TRADE SUSPENSION ADJUSTMENT ACT OF 1980

SHORT TITLE

Sec. 201. This title may be cited as the "Agricultural Trade Suspension Adjustment Act of 1980".

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ADJUSTED PRICE SUPPORT LOAN LEVELS UNDER THE FARMER-HELD RESERVE PROGRAM FOR THE 1980 AND 1981 CROPS OF WHEAT AND FEED GRAINS

Sec. 203.[1] * * *

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AUTHORITY TO USE THE FUNDS, FACILITIES, AND AUTHORITIES OF THE COMMODITY CREDIT CORPORATION TO PURCHASE AGRICULTURAL PRODUCTS INTENDED TO BE EXPORTED TO THE SOVIET UNION

Sec. 206.[2] Notwithstanding any other provision of law, the Secretary of Agriculture may use, subject to such terms and conditions as the Secretary may deem appropriate, the funds, facilities, and

[1] Sec. 203 amended sec. 110(b) of the Agricultural Act of 1949 (7 U.S.C. 1445e).
[2] 15 U.S.C. 714c note.

authorities of the Commodity Credit Corporation in purchasing and handling agricultural products, other than grains, that—

(1) were intended to be exported to the Union of Soviet Socialist Republics under contracts entered into prior to January 5, 1980, but

(2) cannot be exported under such contracts due to the imposition, on January 4, 1980, of restrictions on the export of agricultural products to the Union of Soviet Socialist Republics,

in the same manner and under the same conditions as the Secretary purchases and handles grains under similar contracts and subject to the imposition of the same restrictions.

SUPPLEMENTAL SET-ASIDE AUTHORITY

Sec. 207.[3] * * *

TRADE SUSPENSION RESERVES

Sec. 208.[4] Notwithstanding any other provision of law—

(a) Whenever the President or other member of the executive branch of Government causes the export of any agricultural commodity to any country or area of the world to be suspended or restricted for reasons of national security or foreign policy under the Export Administration Act of 1979 or any other provision of law and the Secretary of Agriculture determines that such suspension or restriction will result in a surplus supply of such commodity that will adversely affect prices producers receive for the commodity, the Secretary may establish a gasohol feedstock reserve or a feed security reserve, or both, of the commodity, as provided in subsections (c) and (d) of this section, if the commodity is suitable for stockpiling in a reserve.

(b) Within thirty days after the export of any agricultural commodity to a country or area is suspended or restricted as described in subsection (a) of this section, the Secretary of Agriculture shall announce whether a gasohol feedstock reserve or a food security reserve of the commodity, or both, will be established under this section and shall include in such announcement the amount of the commodity that will be placed in such reserves, which shall be that portion of the estimated exports of the commodity affected by the suspension or restriction, as determined by the Secretary, that should be removed from the market to prevent the accumulation of a surplus of the commodity that will adversely affect prices producers receive for the commodity.

(c)(1) To establish a gasohol feedstock reserve under this section, the Secretary of Agriculture may acquire agricultural commodities (the export of which is suspended or restricted as described in subsection (a) of this section) that are suitable for use in the production of alcohol for motor fuel through purchases from producers or in the market and by designation by the Secretary of stocks of the commodities held by the Commodity Credit Corporation, and to pay such storage, transportation, and related costs as may be necessary to permit maintenance of the commodities in the reserve for the

[3] Sec. 207 added a new sec. 113 to the Agricultural Act of 1949 (7 U.S.C. 1445h).
[4] 7 U.S.C. 4001.

purposes of this section and disposition of the commodities as provided in paragraph (2) of this subsection.

(2) The Secretary of Agriculture may dispose of stocks of agricultural commodities acquired under paragraph (1) of this subsection only through sale—

(A) for use in the production of alcohol for motor fuel, at not less than the fuel conversion price (as defined in section 212 of this title) for the commodity involved: *Provided,* That, for wheat and feed grains, if the fuel conversion price for the commodity involved is less than the then current release price at which producers may repay producer storage loans on the commodity and redeem the commodity prior to the maturity dates of the loans, as determined under clause (5) of the second sentence of section 110(b) of the Agricultural Act of 1949, the Secretary may dispose of stocks of the commodity for such use only through sale, at not less than the release price: *Provided further,* That such sales shall only be made to persons for use in the production of alcohol for motor fuel at facilities that, whenever supplies of the commodity are not readily available, can produce alcohol from other agricultural or forestry biomass feedstocks; or

(B) for any other use, when sales for use under clause (A) of this paragraph are impracticable, (i) if there is a producer storage program in effect for the commodity, at not less than 110 per centum of the then current level at which the Secretary may encourage repayment of producer storage loans on the commodity prior to the maturity dates of the loans, as determined under clause (5) of the third sentence of section 110(b) of the Agricultural Act of 1949,[5] or, (ii) if there is no producer storage program in effect for the commodity, at not less than the average market price producers received for the commodity at the time the trade suspension was imposed.

(d)(1) To establish a food security reserve under this section, the Secretary of Agriculture may acquire agricultural commodities (the export of which is suspended or restricted as described in subsection (a) of this section) that are suitable for use in providing emergency food assistance and urgent humanitarian relief through purchases from producers or in the market and by designation by the Secretary of stocks of the commodities held by the Commodity Credit Corporation, and to pay such storage, transportation, and related costs as may be necessary to permit maintenance of the commodities in the reserve for the purposes of this section and disposition of the commodities as provided in paragraph (2) of this subsection.

(2)[6] APPLICABILITY OF CERTAIN PROVISIONS.—Subsections (c), (d), (e), and (f)(2) of section 302 of the Bill Emerson Humanitarian

[5] Sec. 1004 of Public Law 97–98 (95 Stat. 1213) amended clause (i) by raising the level from 105 to 110 per centum and stipulated that the Secretary may "encourage" repayment of producer storage loans rather than "call for" the repayment of such loans.

[6] Sec. 225(b) of Public Law 104–127 (110 Stat. 962) amended and restated para. (2). It formerly read as follows:

"(2) The provisions of subsections (c), (d), (e), (f), and (g)(2) of section 302 of the Food Security Wheat Reserve Act of 1980 shall apply to commodities in any reserve established under paragraph (1) of this subsection, and (except for the last sentence of subsection (c) of section 302) the references to 'wheat' in such subsections of section 302 shall be deemed to be references to 'agricultural commodities'.".

Trust Act (7 U.S.C. 1736f–1 et seq.)[7] shall apply to commodities in any reserve established under paragraph (1), except that the references to "eligible commodities" in the subsections shall be deemed to be references to "agricultural commodities".

(3) Any determination by the President or the Secretary of Agriculture under this section shall be final.

(e) The funds, facilities, and authorities of the Commodity Credit Corporation shall be used by the Secretary of Agriculture in carrying out this section, except that any restriction applicable to the acquisition, storage, or disposition of Commodity Credit Corporation owned or controlled commodities shall not apply with respect to the acquisition, storage, or disposition of agricultural commodities under this section.

(f) The Secretary of Agriculture shall establish safeguards to ensure that stocks of agricultural commodities held in the reserves established under this section shall not be used in any manner or under any circumstance to unduly depress, manipulate, or curtail the free market.

(g) Whenever stocks of agricultural commodities are disposed of or released from reserves established under this section, as provided in subsections (c)(2) and (d)(2) of this section, the reserves may not be replenished with replacement stocks.

(h) The provisions of this section shall become effective with respect to any suspension of, or restriction on, the export of agricultural commodities, as described in subsection (a) of this section, implemented after the date of enactment of this Act.

ALCOHOL PROCESSOR GRAIN RESERVE

Sec. 209.[8] (a) As used in this section—

(1) The term "Secretary" means the Secretary of Agriculture.

(2) The term "processor" means any person engaged within the United States in the business of manufacturing grain into alcohol for use as a fuel either by itself or in combination with some other product.

(3) The terms "agricultural grain" and "grain" mean any agricultural commodity (A) that is suitable for processing into alcohol for use as a fuel, and (B) with respect to which a price support operation is in effect.

(4) The term "producer storage program" means the producer storage program provided for under section 110 of the Agriculture Act of 1949.

(5) The term "small scale biomass energy project" shall have the same meaning as defined in section 203(19) of the Energy Security Act.

(b) To assist processors in obtaining a dependable supply of grain at reasonable prices, the Secretary may formulate and administer a program under which processors purchasing and storing grain needed by them for manufacturing into alcohol for use as a fuel may obtain a loan from the Secretary on such grain. Loans under

[7] Sec. 212(b)(4) of Public Law 105–385 (112 Stat. 3466) struck out "Food Security Commodity Reserve Act of 1996" and inserted in lieu thereof "Bill Emerson Humanitarian Trust Act (7 U.S.C. 1736f–1 et seq.)".

[8] 7 U.S.C. 4002.

this section may be made available only to processors that (1) operate small scale biomass energy projects financed in whole or in part by the United States Government or any agency thereof, and (2) as determined by the Secretary, are otherwise unable to obtain a dependable supply of grain at reasonable prices for use in such projects.

(c) Except as otherwise provided in this section, loans made under this section to carry out the processor grain reserve program may be made on the same terms and conditions as loans made to carry out the producer storage program.

(d) The amount of the loan that the Secretary may make to an eligible processor at any time on any quantity of grain purchased by the processor shall be determined by multiplying the price support loan rate in effect for such grain at the time the loan is made times the quantity of grain purchased by the processor. The quantity of grain on which one or more loans may be outstanding at any time in the case of any processor may not exceed the estimated quantity of grain needed by such processor for one year of operation.

(e) Whenever any quantity of grain stored in the processor grain reserve under this section is removed from storage by a processor, the processor may be required to replace such grain with an equal quantity, within such period of time as the Secretary shall prescribe by regulation, or repay that portion of the loan represented by the quantity of grain removed from storage.

(f) Grain on which an eligible processor has received a loan under this section may not be used for any purpose other than the manufacture of alcohol for use as a fuel, and the Secretary shall establish such safeguards as the Secretary deems necessary to assure that such grain is not used for any other purpose and is not used in any manner that would unduly depress, manipulate, or curtail the free market in such grain.

(g) Loans made under this section shall be made subject to such terms and conditions and subject to such security as the Secretary deems appropriate, except that such loans may not be made as nonrecourse loans.

(h) In carrying out the processor grain reserve program under this section, the Secretary may—

(1) provide for the payment to processors of such amounts as the Secretary determines appropriate to cover the cost of storing grain held in the processor grain reserve, except that in no event may the rate of the payment paid under this clause for any period exceed the rate paid by the Secretary under the producer storage program for the same period; and

(2) prescribe conditions under which the Secretary may require processors to repay loans made under this section, plus accrued interest thereon, refund amounts paid to the processors for storage, and require the processors to pay such additional interest and other charges as may be required by regulation in the event any processor fails to abide by the terms and conditions of the loan or any regulation prescribed under this section.

(i) The Secretary shall announce the terms and conditions of the processor grain reserve program as far in advance of making loans as practicable.

(j) The Secretary may use the facilities of the Commodity Credit Corporation to carry out this section.

(k) There are authorized to be appropriated such sums as may be necessary to carry out this section. Any loans made under this section shall be made to such extent and such amounts as provided in appropriation Acts. The authority to make loans under this section shall expire five years after the effective date of this title.

STUDY OF THE POTENTIAL FOR EXPANSION OF UNITED STATES AGRICULTURAL EXPORT MARKETS AND THE USE OF AGRICULTURAL EXPORTS IN OBTAINING NEEDED MATERIALS

Sec. 210.[9] (a) The Secretary of Agriculture, in consultation with the United States Trade Representative and any other appropriate agency of the United States Government as determined by the Secretary, shall perform a study of the potential for expansion of United States agricultural export markets and the use of agricultural exports in obtaining natural resources or other commodities and products needed by the United States. The Secretary shall complete the study and submit to the President and Congress a report on the study before June 30, 1981.

(b) In performing the study, the Secretary shall determine for the next five years—

(1) world food, feed, and fiber needs;

(2) estimated United States and world food, feed, and fiber production capabilities;

(3) potential new or expanded foreign markets for United States agricultural products;

(4) the potential for the development of international agreements for the exchange of United States agricultural products for natural resources, including energy sources, or other commodities and products needed by the United States; and

(5) the steps that the United States must take to (A) increase agricultural export trade, and (B) obtain needed natural resources or other commodities and products in exchange for agricultural products, to the maximum extent feasible.

FOOD BANK DEMONSTRATION PROJECTS

Sec. 211.[10] (a) The Secretary of Agriculture shall carry out demonstration projects to provide agricultural commodities and other foods that might not otherwise be used, or might be more effectively used by organizations assisted under this section, to community food banks for emergency food box distribution to needy individuals and families. Notwithstanding any other provisions of law,

[9] 7 U.S.C. 4003.
[10] 7 U.S.C. 4004.

the Secretary shall make available for purposes of such special nutrition[11] projects, agricultural commodities and other foods available to the Secretary under section 416 of the Agricultural Act of 1949, section 709 of the Food and Agriculture Act of 1965, and section 32 of the Act of August 24, 1935 (7 U.S.C. 612c). For purposes of distributing agricultural commodities and other foods to community food banks under this section, the Secretary may, in consultation with State agencies, use food distribution systems currently used to distribute agricultural commodities and other foods under the Richard B. Russell National School Lunch Act[12] and Child Nutrition Act of 1966. The Secretary shall select food banks, in consultation with the Director of the Community Services Administration, for participation in the demonstration projects under this section. Food banks shall be selected for participation so as to ensure adequate geographic distribution of emergency food box programs in at least two but not more than seven Department of Agriculture regions.

(b)(1) No food bank may participate in the demonstration projects conducted under this section unless an application therefor is submitted to and approved by the Secretary. Such application shall be submitted in such form and manner and shall contain such information as the Secretary shall prescribe.

(2) Each food bank participating in the special nutrition[11] projects under this section shall establish a recordkeeping system and internal procedures to monitor the use of agricultural commodities and other foods provided under this section. The Secretary shall develop standards by which the feasibility and effectiveness of the projects shall be measured, and shall conduct an ongoing review of the effectiveness of the projects.

(c) The Secretary shall determine the quantities and types of agricultural commodities and other foods to be made available under this section. The Secretary may prescribe regulations regarding the designation of eligible participants in the projects and any other regulations necessary to carry out this section.

(d) The Secretary shall submit to Congress a progress report on July 1, 1983, and a final report on January 1, 1984,[13] regarding the demonstration projects carried out under this section. Such report shall include an analysis and evaluation of Federal participation in food bank emergency food programs, the effectiveness of such participation, and the feasibility of continuing such participation. The Secretary shall also include in such report any recommendations regarding improvements in Federal assistance to community food banks, including assistance for administrative expenses and transportation.

(e) The sale of food provided under this section shall be prohibited and any person who receives any remuneration in exchange for food provided under this section shall be subject to a fine of not

[11] Sec. 1114(b)(1) of Public Law 97–98 (95 Stat. 1269) substituted the words "special nutrition" in lieu of the word "demonstration".

[12] Sec. 752(b)(4) of Public Law 106–78 (113 Stat. 1169) struck out "National School Lunch Act" and inserted in lieu thereof "Richard B. Russell National School Lunch Act".

[13] Sec. 1114(b) of Public Law 97–98 (95 Stat. 1269) changed the due date of this report (report originally due October 1, 1982).

more than $1,000 or imprisonment for not more than six months, or both.

(f)[14] The Secretary shall minimize paperwork requirements on food banks which participate in the special nutrition projects established under this section and shall otherwise encourage food banks to participate in such projects.

(g)[14] There is authorized to be appropriated such sums as may be necessary to carry out this section.

DEFINITION OF FUEL CONVERSION PRICE

Sec. 212.[15] As used in this title, the phrase "fuel conversion price" means the price for an agricultural commodity determined by the Secretary of Agriculture that will permit gasoline-alcohol mixtures using alcohol produced from the commodity to be competitive in price with unleaded gasoline priced at the point it leaves the refinery, adjusted for differences in octane rating, taking into consideration the energy value of the commodity and other appropriate values designed to represent, on a national average basis, the value of byproducts also recoverable from the commodity; the direct costs and capital recovery costs for a grain alcohol distillery capable of producing forty million gallons of alcohol and recovering byproducts annually; and Federal tax and other Federal incentives applicable to alcohol used for fuel.

EFFECTIVE DATE

Sec. 213. Except as otherwise provided herein, this title shall become effective October 1, 1980, or the date of enactment, whichever is later.

[14] Sec. 1114(b) of Public Law 97–98 (95 Stat. 1269) redesignated existing subsec. (f) as subsec. (g) and added a new subsec. (f). Such amendment further revised the text of subsec. (g) as redesignated, by striking out an authorization level of $356,000 and substituting the current language.

[15] 7 U.S.C. 4005.

b. Bill Emerson Humanitarian Trust Act [1]

Partial text of Public Law 96–494 [H.R. 3765], 94 Stat. 2570 at 2578, approved December 3, 1980; as amended by Public Law 99–198 [Food Security Act of 1985, H.R. 2100], 99 Stat. 1354, approved December 23, 1985; Public Law 101–624 [Food, Agriculture, Conservation, and Trade Act of 1990; S. 2830], 104 Stat. 3359, approved November 28, 1990; Public Law 104–127 [Federal Agriculture Improvement and Reform Act of 1996; H.R. 2854], 110 Stat. 888, approved April 4, 1996; Public Law 105–385 [Africa: Seeds of Hope Act of 1998; H.R. 4283], 112 Stat. 3460, approved November 13, 1998; and by Public Law 107–171 [Farm Security and Rural Investment Act of 2002; H.R. 2646], 116 Stat. 134, approved May 13, 2002

TITLE III—BILL EMERSON HUMANITARIAN TRUST [1]

SEC. 301.[2] SHORT TITLE.

This title may be cited as the "Bill Emerson Humanitarian Trust Act".

SEC. 302.[3] ESTABLISHMENT OF COMMODITY TRUST.

(a) IN GENERAL.—To provide for a trust [4] solely to meet emergency humanitarian food needs in developing countries, the Secretary of Agriculture (referred to in this title as the "Secretary") shall establish a trust [4] stock of wheat, rice, corn, or sorghum, or any combination of the commodities, totaling not more than 4,000,000 metric tons for use as described in subsection (c).

(b) COMMODITIES OR FUNDS IN TRUST.— [5]

(1) IN GENERAL.—The trust [4] established under this section shall consist of—

(A) wheat in the reserve established under the Food Security Wheat Reserve Act of 1980 as of the date of enactment of the Federal Agriculture Improvement and Reform Act of 1996;

(B) wheat, rice, corn, and sorghum (referred to in this section as "eligible commodities") acquired in accordance with paragraph (2) to replenish eligible commodities released from the trust,[6] including wheat to replenish wheat released from the reserve established under the Food Security Wheat Reserve Act of 1980 but not replenished as of

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[1] Formerly the Food Security Wheat Reserve Act of 1980, sec. 225(a) of the Federal Agriculture Improvement and Reform Act of 1996 (Public Law 104–127; 110 Stat. 959) amended and restated the entire title III as the Food Security Commodity Reserve Act of 1996. Subtitle B of title II of Public Law 105–385 (112 Stat. 3465) renamed the measure to its current name.

[2] 7 U.S.C. 1736f–1 note. Amended and restated by sec. 212(b)(2) of Public Law 105–385 (112 Stat. 3466).

[3] 7 U.S.C. 1736f–1. Sec. 212(b)(3)(A) of Public Law 105–385 (112 Stat. 3467) struck out **"RESERVE"** in section catchline and inserted in lieu thereof **"TRUST"**.

[4] Sec. 212(b)(3)(B) of Public Law 105–385 (112 Stat. 3467) struck out "reserve" each place it appeared in sec. 302 (other than in subparas. (A) and (B) of subsec. (b)(1)) and inserted in lieu thereof "trust".

[5] Sec. 212(b)(3)(C)(i) of Public Law 105–385 (112 Stat. 3467) struck out "RESERVE" in the subsec. catchline, and inserted in lieu thereof "TRUST". Sec. 212(a)(1)(A) of that Act inserted "OR FUNDS" after "COMMODITIES".

[6] Sec. 212(b)(3)(C)(ii) of Public Law 105–385 (112 Stat. 3467) struck out "reserve," and inserted in lieu thereof "trust,".

the date of enactment of the Federal Agriculture Improvement and Reform Act of 1996;[7]

(C) such rice, corn, and sorghum as the Secretary may, at such time and in such manner as the Secretary determines appropriate, acquire as a result of exchanging an equivalent value of wheat in the trust[4] established under this section; and[7]

(D)[7] funds made available under paragraph (2)(B) which shall be used solely to replenish commodities in the trust.

(2) REPLENISHMENT OF TRUST.—[8]

(A) IN GENERAL.—Subject to subsection (h), commodities of equivalent value to eligible commodities in the trust[4] established under this section may be acquired—

(i) through purchases—

(I) from producers; or

(II) in the market, if the Secretary determines that the purchases will not unduly disrupt the market; or

(ii) by designation by the Secretary of stocks of eligible commodities of the Commodity Credit Corporation.

(B)[9] FUNDS.—Any funds used to acquire eligible commodities through purchases from producers or in the market to replenish the trust shall be derived—

(i)[10] with respect to fiscal years 2000 through 2007[11] from funds made available to carry out the Agricultural trade and Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.) that are used to repay or reimburse the Commodity Credit Corporation for the release of eligible commodities under subsections (c)(2) and (f)(2), except that, of such funds, not more than $20,000,000 may be expended for this purpose in each of the fiscal years 2000 through 2007;[11] and

(ii) from funds authorized for that use by an appropriations Act.

(c) RELEASE OF ELIGIBLE COMMODITIES.—

(1) EMERGENCY ASSISTANCE.—

(A) In general.—Notwithstanding paragraph (2), to meet unanticipated need, the Secretary may release eligible commodities in any fiscal year, without regard to the availability of domestic supply of the commodities, to provide

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[7] Sec. 212(a)(1)(B) of Public Law 105–385 (112 Stat. 3467) struck out "and" at the end of subpara. (B); replaced a period at the end of subpara. (C) with "; and"; and added a new subpara. (D).

[8] Sec. 212(b)(3)(C)(iii) of Public Law 105–385 (112 Stat. 3467) struck out "RESERVE" in the subsec. catchline, and inserted in lieu thereof "TRUST".

[9] Sec. 212(a)(1)(C) of Public Law 105–385 (112 Stat. 3466) amended and restated subpara. (B).

[10] Sec. 747 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2003 (division A of Public Law 108–7; 117 Stat. 44) provided the following:

"SEC. 747. None of the funds made available in fiscal year 2003 or preceding fiscal years for programs authorized under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.) in excess of $20,000,000 shall be used to reimburse the Commodity Credit Corporation for the release of eligible commodities under section 302(f)(2)(A) of the Bill Emerson Humanitarian Trust Act (7 U.S.C. 1736f–1): *Provided,* That any such funds made available to reimburse the Commodity Credit Corporation shall only be used pursuant to section 302(b)(2)(B)(i) of the Bill Emerson Humanitarian Trust Act.".

[11] Sec. 3202 of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 300) struck out "2002" and inserted in lieu thereof "2007".

emergency assistance to developing countries under title II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1721 et seq.).

(B) RELEASE FOR EMERGENCY ASSISTANCE.—If the eligible commodities needed to meet unanticipated need cannot be made available in a timely manner under normal means for obtaining eligible commodities for food assistance because of unanticipated need for emergency assistance as provided under section 202(a) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1722(a)), the Secretary may in any fiscal year release from the trust—[4]

(i) up to 500,000 metric tons of wheat or the equivalent value of eligible commodities other than wheat; and

(ii) up to 500,000 metric tons of any eligible commodities under this paragraph that could have been released but were not released in prior fiscal years.

(C) WAIVER OF MINIMUM TONNAGE REQUIREMENTS.—Nothing in this paragraph shall require a waiver under section 204(a)(3) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1724(a)(3)) as a prerequisite for the release of eligible commodities under this paragraph.

(2) EMERGENCY FOOD ASSISTANCE.—

(A) IN GENERAL.—Notwithstanding[12] any other provision of law, eligible commodities designated or acquired for the trust[4] established under this section may be released by the Secretary to provide, on a donation or sale basis, emergency food assistance to developing countries at such time as the domestic supply of the eligible commodities is so limited that quantities of the eligible commodities cannot be made available for disposition under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.) (other than disposition for urgent humanitarian purposes under section 401 of the Act (7 U.S.C. 1731)).

(B)[12] LIMITATION.—The Secretary may release eligible commodities under subparagraph (A) only to the extent such release is consistent with maintaining the long-term value of the trust.

(3) PROCESSING OF ELIGIBLE COMMODITIES.—Eligible commodities that are released from the trust[4] established under this section may be processed in the United States and shipped to a developing country when conditions in the recipient country require processing.

(4) EXCHANGE.—The Secretary may exchange an eligible commodity for another United States commodity of equal value, including powdered milk, pulses, and vegetable oil.

(5) USE OF NORMAL COMMERCIAL PRACTICES.—To the maximum extent practicable consistent with the fulfillment of the

[12] Sec. 212(a)(2) of Public Law 105–385 (112 Stat. 3466) added subpara. designation "(A) IN GENERAL.—" and added a new subpara. (B).

purposes of this section and the effective and efficient administration of this section, the Secretary shall use the usual and customary channels, facilities, arrangements, and practices of trade and commerce to carry out this subsection.

(d) MANAGEMENT OF ELIGIBLE COMMODITIES.—The Secretary shall provide—

(1) for the management of eligible commodities in the trust[4] established under this section as to location and quality of eligible commodities needed to meet emergency situations;[13]

(2) for the periodic rotation or replacement of stocks of eligible commodities in the trust[4] to avoid spoilage and deterioration of the commodities; and[13]

(3)[13] subject to the need for release of commodities from the trust under subsection (c)(1), for the management of the trust to preserve the value of the trust through acquisitions under subsection (b)(2).

(e) TREATMENT OF TRUST UNDER OTHER LAW.—[14] Eligible commodities in the trust[4] established under this section shall not be—

(1) considered a part of the total domestic supply (including carryover) for the purpose of subsection (c) or for the purpose of administering the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.); and

(2) subject to any quantitative limitation on exports that may be imposed under section 7 of the Export Administration Act of 1979 (50 U.S.C. App. 2406).

(f) USE OF COMMODITY CREDIT CORPORATION.—

(1) IN GENERAL.—Subject to the limitations provided in this section, the funds, facilities, and authorities of the Commodity Credit Corporation shall be used by the Secretary in carrying out this section, except that any restriction applicable to the acquisition, storage, or disposition of eligible commodities owned or controlled by the Commodity Credit Corporation shall not apply.

(2) REIMBURSEMENT OF THE TRUST.—[15]

(A)[10] IN GENERAL.—The Commodity Credit Corporation shall be reimbursed for the release of eligible commodities from funds made available to carry out the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.) and the funds shall be available to replenish the trust under subsection (b).[16]

(B) BASIS FOR REIMBURSEMENT.—The reimbursement shall be made on the basis of the lesser of—

(i) the actual costs incurred by the Commodity Credit Corporation with respect to the eligible commodity; or

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[13] Sec. 212(a)(3) of Public Law 105–385 (112 Stat. 3466) struck out "and" at the end of para. (1); replaced a period at the end of para. (2) with "; and"; and added a new para. (3).

[14] Sec. 212(b)(3)(D) of Public Law 105–385 (112 Stat. 3467) struck out "RESERVE" in the subsec. catchline, and inserted in lieu thereof "TRUST".

[15] Sec. 212(a)(4)(A) of Public Law 105–385 (112 Stat. 3466) inserted "OF THE TRUST" after "REIMBURSEMENT".

[16] Sec. 212(a)(4)(B) of Public Law 105–385 (112 Stat. 3466) inserted "and the funds shall be available to replenish the trust under subsection (b)".

(ii) the export market price of the eligible commodity (as determined by the Secretary) as of the time the eligible commodity is released from the trust.[4]

(C) SOURCE OF FUNDS.—The reimbursement may be made from funds appropriated for subsequent fiscal years.

(g) FINALITY OF DETERMINATION.—Any determination by the Secretary under this section shall be final.

(h) TERMINATION OF AUTHORITY.—

(1) IN GENERAL.—The authority to replenish stocks of eligible commodities to maintain the trust[4] established under this section shall terminate on September 30, 2007.[17]

(2) DISPOSAL OF ELIGIBLE COMMODITIES.—Eligible commodities remaining in the trust[4] after September 30, 2007,[17] shall be disposed of by release for use in providing for emergency humanitarian food needs in developing countries as provided in this section.

[17] Sec. 3202 of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 300) struck out "2002" and inserted in lieu thereof "2007".

c. Food Security Wheat Reserve

Executive Order 12266, January 15, 1981, 46 F.R. 4667, 7 U.S.C. 1736f–1 note

By the authority vested in me as President of the United States of America by Section 302(a) of the Food Security Wheat Reserve Act of 1980 (Title III of the Agricultural Act of 1980 (Public Law 96–494)),[1] it is hereby ordered as follows:

1–101. There is hereby established a Food Security Wheat Reserve composed of a reserve stock of wheat, which shall not exceed four million metric tons.

1–102. The Secretary of Agriculture is responsible for designating, in accordance with Section 302 of the Food Security Wheat Reserve Act of 1980, the specific reserve stocks of wheat which shall comprise the Food Security Wheat Reserve.

[1] Amended and restated. See Bill Emerson Humanitarian Trust Act, page 1386.

4. National Agricultural Research, Extension, and Teaching Policy Act of 1977

Partial text of Public Law 95–113 [Food and Agriculture Act of 1977; S. 275], 91 Stat. 913 at 981, approved September 29, 1977; amended by Public Law 97–98 [Agriculture and Food Act of 1981; S. 884], 95 Stat. 1213, approved December 22, 1981; Public Law 99–198 [Food Security Act of 1985; H.R. 2100], 99 Stat. 1354, approved December 23, 1985; Public Law 101–624 [Food, Agriculture, Conservation, and Trade Act of 1990; S. 2830], 104 Stat. 3359, approved November 28, 1990; Public Law 102–237 [Food, Agriculture, Conservation, and Trade Act Amendments of 1991; H.R. 3029], 105 Stat. 1818, approved December 13, 1991; Public Law 104–127 [Federal Agriculture Improvement and Reform Act of 1996; H.R. 2854], 110 Stat. 888, approved April 4, 1996; Public Law 105–185 [Agricultural Research, Extension, and Education Reform Act of 1998; S. 1150], 112 Stat. 523, approved June 23, 1998; and by Public Law 107–171 [Farm Security and Rural Investment Act of 2002; H.R. 2646], 116 Stat. 134, approved May 13, 2002

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TITLE XIV—NATIONAL AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING POLICY ACT OF 1977

SHORT TITLE

SEC. 1401.[1] This title may be cited as the "National Agricultural Research, Extension, and Teaching Policy Act of 1977".

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Subtitle I—International Research, Extension, and Training[2]

SEC. 1458.[3] INTERATIONAL AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING[4]

(a)[5] AUTHORITY OF THE SECRETARY.—To carry out the policy of this subtitle, the Secretary (in consultation with the Agency for International Development and subject to such coordination with other Federal officials, Departments, and agencies as the President may direct) may—

(1) expand the operational coordination of the Department of Agriculture with institutions and other persons throughout the

[1] 7 U.S.C. 3101 note.

[2] Sec. 1613(d)(1)(A) of Public Law 101–624 (104 Stat. 3726) and sec. 227(e) of Public Law 105–185 (112 Stat. 545) amended and restated the subtitle heading. It originally read "International Agricultural Research and Extension".

[3] 7 U.S.C. 3291. Sec. 1436 of Public Law 97–98 (95 Stat. 1313) amended and restated sec. 1458.

[4] Sec. 227(a)(1) of Public Law 105–185 (112 Stat. 543) struck out "RESEARCH AND EXTENSION" and inserted in lieu thereof "RESEARCH, EXTENSION, AND TEACHING". Previously, sec. 1613(d)(1)(A) of Public Law 101–624 (104 Stat. 3726) added the section catchline.

[5] Sec. 1613(a) of Public Law 101–624 (104 Stat. 3726) amended and restated subsec. (a).

world performing agricultural and related research, extension, and teaching[6] activities by—

(A) exchanging research materials and results with the institutions or persons; and

(B) conducting with the institutions or persons joint or coordinated research, extension, and teaching activities that address[7] problems of significance to food and agriculture in the United States;

(2) enter into cooperative arrangements with Departments and Ministries of Agriculture in other nations to conduct research, extension, and teaching[8] activities in support of the development of a viable and sustainable global agricultural system, including efforts to establish a global system for plant genetic resources conservation;

(3) enter into agreements with land-grant colleges and universities, the Agency for International Development, and international organizations (such as the United Nations, World Bank, regional development banks, the International Agricultural Research Center), or other organizations, institutions or individuals with comparable goals, to promote and support the development of a viable and sustainable global agricultural system;[9]

(4) further develop within the Department highly qualified and experienced scientists and education experts[10] who specialize in international programs, to be available to carry out the activities described in this section;

(5) work with transitional and more advanced countries in food, agricultural, and related research, development, teaching,[11] and extension (including providing technical assistance, training, and advice to persons from the countries engaged in the activities and the stationing of scientists and other specialists at national and international institutions in the countries);

(6) expand collaboration and coordination with the Agency for International Development regarding food and agricultural research, extension, and teaching[12] programs in developing countries;

(7) assist colleges and universities in strengthening their capabilities for food, agricultural, and related research, extension, and teaching programs[13] relevant to agricultural development activities in other countries through—

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[6] Sec. 227(a)(2)(A)(i) of Public Law 105–185 (112 Stat. 544) struck out "related research and extension" and inserted in lieu thereof "related research, extension, and teaching".

[7] Sec. 227(a)(2)(A)(ii) of Public Law 105–185 (112 Stat. 544) struck out "research and extension on" and inserted in lieu thereof "research, extension, and teaching activities that address".

[8] Sec. 227(a)(2)(B) of Public Law 105–185 (112 Stat. 544) struck out "education" and inserted in lieu thereof "teaching".

[9] Sec. 402(11) of Public Law 102–237 (105 Stat. 1863) struck out a period at the end of para. (3) and inserted in lieu thereof a semicolon.

[10] Sec. 227(a)(2)(C) of Public Law 105–185 (112 Stat. 544) struck out "scientists and experts" and inserted in lieu thereof "scientists and education experts".

[11] Sec. 227(a)(2)(D) of Public Law 105–185 (112 Stat. 544) inserted "teaching," after "development,".

[12] Sec. 227(a)(2)(B) of Public Law 105–185 (112 Stat. 544) struck out "education" and inserted in lieu thereof "teaching".

[13] Sec. 227(a)(2)(E) of Public Law 105–185 (112 Stat. 544) struck out "research and extension that is" and inserted in lieu thereof "research, extension, and teaching programs".

(A) the provision of support to State universities and land-grant colleges and universities to do collaborative research with other countries on issues relevant to United States agricultural competitiveness;

(B) the provision of support for cooperative extension education in global agriculture and to promote the application of new technology developed in foreign countries to United States agriculture; and

(C) the provision of support for the internationalization of resident instruction programs of the universities and colleges described in subparagraph (A);[14]

(8) continue,[15] in cooperation with the Secretary of State, a program, coordinated[15] through the International Arid Land Consortium, to enhance collaboration and cooperation between institutions possessing research, extension, and teaching capabilities[16] applied to the development, management, and reclamation of arid lands;[17]

(9)[14] make competitive grants for collaborative projects that—

(A) involve Federal scientists or scientists from landgrant colleges and universities or other colleges and universities with scientists at international agricultural research centers in other nations, including the international agricultural research centers of the Consultative Group on International Agriculture Research;

(B) focus on developing and using new technologies and programs for—

(i) increasing the production of food and fiber, while safeguarding the environmental worldwide and enhancing the global competitiveness of United States agriculture; or

(ii) training scientists;

(C) are mutually beneficial to the United States and other countries; and

(D) encourage private sector involvement and the leveraging of private sector funds; and

(10)[17] establish a program, to be coordinated by the Cooperative State Research, Education, and Extension Service and the Foreign Agricultural Service, to place interns from United States colleges and universities at Foreign Agricultural Service field offices overseas.

(b)[18] ENHANCING LINKAGES.—The Secretary shall draw upon and enhance the resources of the land-grant colleges and universities, and other colleges and universities, or developing linkages among

[14] Sec. 227(b) of Public Law 105–185 (112 Stat. 544) struck out "and" at the end of para. (7); replaced the period at the end of para. (8) with a semicolon; and added para. (9).

[15] Sec. 816 of Public Law 104–127 (110 Stat. 1167) struck out "establish" and inserted in lieu thereof "continue", and struck out "to be" before "coordinated" in sec. 1458(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977.

[16] Sec. 227(a)(2)(F) of Public Law 105–185 (112 Stat. 544) struck out "research capabilities" and inserted in lieu thereof "research, extension, and teaching capabilities".

[17] Sec. 7209(c) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 445) struck out "and" at the end of para. (8), replaced a period at the end of para. (9) with "; and", and added para. (10).

[18] Subsec. (b) was added by sec. 1436 of Public Law 97–98 (95 Stat. 1313). Sec. 1613(d)(1)(B) of Public Law 101–624 (104 Stat. 3726) added "ENHANCING LINKAGES.—".

these institutions, the Federal government, international research centers, and counterpart research, extension, and teaching agencies[19] and institutions in both the development and less-developed countries to serve the purposes of agriculture and the economy of the United States and to make a substantial contribution to the cause of improved food and agricultural progress throughout the world.

(c)[20] PROVISION OF SPECIALIZED OR TECHNICAL SERVICES.—The Secretary may provide specialized or technical services, on an advance of funds or a reimbursable basis, to United states colleges and universities and other governmental organizations[21] carrying out international food, agricultural, and related research, extension, and teaching development projects and activities. All funds received in payment for furnishing such specialized or technical services shall be deposited to the credit of the appropriation from which the cost of providing such services has been paid or is to be charged.

(d)[22] REPORTS.—The Secretary shall provide biennial reports to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on efforts of the Federal Government—

(1) to coordinate international agricultural research within the Federal Government; and

(2) to more effectively link the activities of domestic and international agricultural researchers, particularly researchers of the Agricultural Research Service.

(e)[23] FULL PAYMENT OF FUNDS MADE AVAILABLE FOR CERTAIN BINATIONAL PROJECTS.—Notwithstanding any other provision of law, the full amount of any funds appropriated or otherwise made available to carry out cooperative projects under the arrangement entered into between the Secretary and the Government of Israel to support the Israel-United States Binational Agricultural Research and Development Fund shall be paid directly to the Fund.

SEC. 1458A.[24] * * * [Repealed—1996]

SEC. 1459.[25] **UNITED STATES-MEXICO JOINT AGRICULTURAL RESEARCH.**

(a) RESEARCH AND DEVELOPMENT PROGRAM.—The Secretary may provide for an agricultural research and development program with the United States/Mexico Foundation for Science. The program shall focus on binational problems facing agricultural producers and consumers in the 2 countries, in particular pressing problems in the areas of food safety, plant and animal pest control, and the natural resources base on which agriculture depends.

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[19] Sec. 227(a)(3) of Public Law 105–185 (112 Stat. 544) struck out "counterpart agencies" and inserted in lieu thereof "counterpart research, extension, and teaching agencies".

[20] Added by sec. 1436 of Public Law 97–98 (95 Stat. 1313). the subsec. catchline was added by sec. 1613(d)(1)(C) of Public Law 101–624 (104 Stat. 3724).

[21] Sec. 1613(b) of Public Law 101–624 (104 Stat. 3724) added "and other governmental organizations" after "universities".

[22] Sec. 227(c) of Public Law 105–185 (112 Stat. 544) added subsec. (d).

[23] Sec. 227(d) of Public Law 105–185 (112 Stat. 544) added subsec. (e).

[24] Formerly at 7 U.S.C. 3292. Pertaining to grants to states for international trade development centers; repealed by sec. 856 of Public Law 104–127 (110 Stat. 1172).

[25] 7 U.S.C. 3292a. Added by sec. 228 of Public Law 105–185 (112 Stat. 545).

(b) ADMINISTRATION.—Grants under the research and development program shall be awarded competitively through the Foundation.

(c) MATCHING REQUIREMENTS.—The provision of funds to the Foundation by the United States Government shall be subject to the condition that the Government of Mexico match, on at least a dollar-for-dollar basis, any funds provided by the United States Government.

(d) LIMITATION ON USE OF FUNDS.—Funds provided under this section may not be used for the planning, repair, rehabilitation, acquisition, or construction of a building or facility.

SEC. 1459A.[26] COMPETITIVE GRANTS FOR INTERNATIONAL AGRICULTURAL SCIENCE AND EDUCATION PROGRAMS.

(a) COMPETITIVE GRANTS AUTHORIZED.—The Secretary may make competitive grants to colleges and universities in order to strengthen United States economic competitiveness and to promote international market development.

(b) PURPOSE OF GRANTS.—Grants under this section shall be directed to agricultural research, extension, and teaching activities that will—

(1) enhance the international content of the curricula in colleges and universities so as to ensure that United States students acquire an understanding of the international dimensions and trade implications of their studies;

(2) ensure that United States scientists, extension agents, and educators involved in agricultural research and development activities outside of the United States have the opportunity to convey the implications of their activities and findings to their peers and students in the United States and to the users of agricultural research, extension, and teaching;

(3) enhance the capabilities of colleges and universities to do collaborative research with other countries, in cooperation with other Federal agencies, on issues relevant to United States agricultural competitiveness;

(4) enhance the capabilities of colleges and universities to provide cooperative extension education to promote the application of new technology developed in foreign countries to United States agriculture; and

(5) enhance the capability of United States colleges and universities, in cooperation with other Federal agencies, to provide leadership and educational programs that will assist United States natural resources and food production, processing, and distribution businesses and industries to compete internationally, including product market identification, international policies limiting or enhancing market production, development of new or enhancement of existing markets, and production efficiencies.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 1999 through 2007.[27]

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[26] 7 USC 3292b. Added by sec. 229 of Public Law 105–185 (112 Stat. 545).

[27] Sec. 7112 of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 445) struck out "2002" and inserted in lieu thereof "2007".

5. Agriculture and Food Act of 1981

Partial text of Public Law 97–98 [S. 884], 95 Stat. 1213 at 1274; as amended by Public Law 98–412 [Agricultural Trade and Export Policy Commission Act, H.J. Res. 600], 98 Stat. 1576, approved August 30, 1984; Public Law 99–198 [Food for Progress Act of 1985, H.R. 2100], 99 Stat. 1354, approved December 23, 1985; Public Law 101–624 [Food, Agriculture, Conservation, and Trade Act of 1990; S. 2830], 104 Stat. 3359, approved November 28, 1990; Public Law 104–127 [Federal Agriculture Improvement and Reform Act of 1996; H.R. 2854], 110 Stat. 888, approved April 4, 1996

AN ACT To provide price and income protection for farmers, assure consumers an abundance of food and fiber at reasonable prices, continue food assistance to low-income households, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, with the following table of contents, may be cited as the "Agriculture and Food Act of 1981".

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TITLE XII—AGRICULTURAL EXPORTS AND PUBLIC LAW 480

SUBTITLE A—GENERAL EXPORT PROVISIONS

AGRICULTURAL EXPORT CREDIT REVOLVING FUND

Sec. 1201.[1] * * *

CONGRESSIONAL CONSULTATION ON BILATERAL COMMODITY SUPPLY AGREEMENTS

Sec. 1202.[2] As soon as practicable before the Government of the United States enters into any bilateral international agreement, other than a treaty, involving a commitment on the part of the United States to assure access by a foreign country or instrumentality thereof to United States agricultural commodities or products thereof on a commercial basis, the President is encouraged to notify and consult with the appropriate committees of Congress for the purpose of setting forth in detail the terms of and reasons for negotiating such agreement.

SPECIAL STANDBY EXPORT SUBSIDY PROGRAM

Sec. 1203.[3] * * * [Repealed—1990]

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[1] Sec. 1201 amended sec. 4 of the Food for Peace Act of 1966 (Public Law 89–808) by adding a new subsec. (d) which established the Agricultural Export Credit Revolving Fund.

[2] 7 U.S.C. 1736h.

[3] Secs. 1203, 1204, and 1205 (7 U.S.C. 1736i, 1736j, 1736k) were repealed by sec. 1573 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3702).

AGRICULTURAL EMBARGO PROTECTION

Sec. 1204.[3] * * * [Repealed—1990]

DEVELOPMENT OF PLANS TO ALLEVIATE ADVERSE IMPACT OF EXPORT EMBARGOES ON AGRICULTURAL COMMODITIES

Sec. 1205.[3] * * * [Repealed—1990]

CONSULTATION ON GRAIN MARKETING

Sec. 1206.[4] Congress encourages the Secretary of Agriculture, in coordination with other appropriate Federal departments and agencies, to continue to consult with representatives of other major grain exporting nations toward the goal of establishing more orderly marketing of grain and achieving higher farm income for producers of grain.

Sec. 1207.[5] * * * [Repealed—1996]

Sec. 1208.[6] * * * [Repealed—1996]

EXEMPTION FOR PROTEIN BYPRODUCTS

Sec. 1209.[7] * * *

SUBTITLE B—PUBLIC LAW 480[8]

SELF-HELP MEASURES TO INCREASE AGRICULTURAL PRODUCTION; VERIFICATION OF SELF-HELP PROVISIONS

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SUBTITLE C—AGRICULTURAL TRADE AND EXPORT POLICY COMMISSION ACT[9]

SHORT TITLE

Sec. 1217.[9] This subtitle may be cited as the "Agricultural Trade and Export Policy Commission Act".

FINDINGS AND DECLARATION OF POLICY

Sec. 1218.[9] (a) Congress finds that—

(1) the economic well-being of the Nation's agricultural industry is directly related to its ability to compete in international markets; and

(2) a thorough examination of agriculture-related trade and export policies, programs, and practices of the United States is needed to ensure that such policies, programs, and practices

[4] 7 U.S.C. 1736*l*.

[5] Formerly at 7 U.S.C. 1736m. Sec. 1207, expressing sense of the Congress regarding the expansion of international markets for U.S. agricultural commodities and products, was repealed by sec. 266 of Public Law 104–127 (110 Stat. 974).

[6] Formerly at 7 U.S.C. 1736n. Sec. 226 of Public Law 104–127 (110 Stat. 962) repealed sec. 1208, which had, in part, required the Secretary of Agriculture to report annually on efforts being made to make available protein byproducts derived from alcohol fuel production.

[7] Sec. 1209 amended the Act entitled "An Act authorizing Commodity Credit Corporation to purchase flour and cornmeal and donating same for certain domestic and foreign purposes" (7 U.S.C. 1431 note).

[8] Subtitle B amended Public Law 480.

[9] 7 U.S.C. 1691 note. Public Law 98–412 (98 Stat. 1576) added subtitle C (secs. 1217–1223).

increase the competitiveness of United States agricultural commodities and products in international markets.

(b) It is hereby declared to be the policy of Congress to expand international trade in United States agricultural commodities and products and to develop, maintain, and expand markets for United States agricultural exports.

ESTABLISHMENT

Sec. 1219.[9] (a) There is established a National Commission on Agricultural Trade and Export Policy to conduct a study of the agriculture-related trade and export policies, programs, and practices of the United States.

(b) In addition to the ex officio congressional members specified in subsection (c) of this section, the Commission shall be composed of twenty-three members appointed or designated by the President and selected as follows:

(1) The President shall select three members from among officers or employees of the Executive branch who shall serve in an ex officio capacity without voting rights; and

(2) The President pro tempore of the Senate and the Speaker of the House of Representatives shall each select then members from among private citizens of the United States to represent industries that are directly affected by agriculture-related trade and export policies, programs, and practices of the United States, including, but not limited to, the following:

(A) producers of major agricultural commodities in the United States;

(B) processors or refiners of United States agricultural commodities;

(C) exporters, transporters, or shippers of United States agricultural commodities and products to foreign countries;

(D) suppliers of production equipment or materials to United States farmers;

(E) providers of financing or credit for domestic and export agricultural purposes; and

(F) organizations representing general farm and rural interests in the United States.

(c) The chairmen and ranking minority members of the House Committee on Agriculture, the Senate Committee on Agriculture, Nutrition, and Forestry, the House Committee on Foreign Affairs,[10] the Senate Committee on Foreign Relations, the House Committee on Ways and Means, and the Senate Committee on Finance shall serve as ex officio members of the Commission and shall have the same voting rights as the members of the Commission selected and appointed under the provisions of subsection (b)(2) of this section. The chairmen and ranking minority members may designate other members of their respective committees to serve in their stead as members of the Commission.

(d) A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

[10] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

(e) The Commission shall elect a chairman from among the members of the Commission who are selected and appointed under the provisions of subsection (b)(2) of this section.

(f) The Commission shall meet at the call of the chairman or a majority of the Commission.

CONDUCT OF STUDY

Sec. 1220.[9] The Commission shall study the agriculture-related trade and export policies, programs, and practices of the United States and the international and domestic factors affecting such policies, programs, and practices, including the intergovernmental activities of the United States that affect the formulation of policies. In conducting the study, the Commission shall consider, among other things, the following:

(1) the effectiveness of existing agricultural export assistance programs, and the manner in which they can be improved;

(2) new export assistance programs that should be considered, and the conditions under which they can be implemented;

(3) practices of foreign countries that impede the export of United States agricultural commodities and products, and appropriate responses for the United States;

(4) the effectiveness of the trade agreements program of the United States with respect to agriculture-related trade and exports, and the manner in which it can be improved;

(5) international economic trends that affect agricultural exports, and the manner in which the United States can best adjust its policies, programs, and practices to meet changing economic conditions;

(6) potential areas of conflict and compatibility between international agricultural trade and foreign food assistance programs, and the manner in which any conflict can be resolved; and

(7) the relationship between international agricultural trade and foreign economic development and food programs, and the manner in which they can be made more compatible.

RECOMMENDATIONS AND REPORTS

Sec. 1221.[9] (a) On the basis of its study, the Commission shall make findings and develop recommendations for consideration by the President and Congress with respect to the agriculture-related trade and export policies, programs, and practices of the United States, and the manner in which such policies, programs, and practices can be improved to better develop, maintain and expand markets for United States agricultural exports.

(b) The Commission shall submit to the President and Congress—

(1) a report containing its initial findings and recommendations by March 31, 1985,

(2) such additional interim reports on its work as may be requested by the chairman of any of the Committees set forth in section 1219(c) of this subtitle, and

(3) a report containing the final results of its study and its recommendations therefrom by July 1, 1986.

ADMINISTRATION

Sec. 1222.[9] (a) The heads of Executive agencies, the General Accounting Office,[10] the International Trade Commission, and the Congressional Budget Office shall, to the extent permitted by law, provide the Commission such information as it may require in carrying out its duties and functions.

(b) Members of the Commission shall serve without any additional compensation for work on the Commission. However, members appointed from among private citizens of the United States may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the government service under sections 5701 through 5707 of title 5, United States Code.

(c) To the extent there are sufficient funds available to the Commission in advance under section 1223 of this subtitle, and subject to such rules as may be adopted by the Commission, the chairman, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, shall have the power to—

(1) appoint and fix the compensation of a director; and

(2) appoint and fix the compensation of such additional staff personnel as the Commission determines necessary to carry out its duties and functions.

(d) Upon request of the Commission, the Secretary of Agriculture shall furnish the Commission with such personnel and support services as are necessary to assist the Commission in carrying out its duties and functions.

(e) Upon request of the Commission, the heads of other Executive agencies and the General Accounting Office[10] are each authorized to furnish the Commission with such personnel and support services as the head of the agency or office and the chairman of the Commission agree are necessary to assist the Commission in carrying out its duties and functions.

(f) The Commission shall not be required to pay or reimburse any agency or office for personnel and support services provided under this section.

(g) In accordance with section 12 of the Federal Advisory Committee Act, the Secretary of Agriculture shall maintain such financial records as will fully disclose the disposition of any funds that may be at the disposal of the Commission and the nature and extent of its activities, and the Comptroller General of the United States, or any of the Comptroller General's authorized representatives, shall have access to such records for the purpose of audit and examination.

(h) The Commission shall be exempt from section 7(d), section 10(e), section 10(f), and section 14 of the Federal Advisory Committee Act.

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[10] Sec. 8 of the GAO Human Capital Reform Act of 2004 (Public Law 108–271; 118 Stat. 814) redesignated the "General Accounting Office" as the "Government Accountability Office" and provided that "Any reference to the General Accounting Office in any law, rule, regulations, certificate, directive, instruction, or other official paper in force on the date of enactment of this Act shall be considered to refer and apply to the Government Accountability Office.".

(i) The Commission shall be exempt from the requirements of sections 4301 through 4305 of title 5, United States Code.

PUBLIC SUPPORT

Sec. 1223.[9] (a) Following the appointment or designation of the members of the Commission, notwithstanding the provisions of section 1342 of title 31, United States Code, the Secretary of Agriculture may receive, from persons, corporations, foundations, and all other groups and entities within the United States, contributions of money and services to assist the Commission in carrying out its duties and functions. Any money contributed under this section shall be available to the Commission for the payment of salaries, travel expenses, per diem, and other expenses incurred by the Commission under this subtitle. In no event may the contributions from any one person, corporation, foundation, or other group or entity exceed 5 per centum of the Commission's total budget.

(b) If the contributions provided under subsection (a) are insufficient for payment of Commission salaries, travel expenses, per diem, and other expenses incurred by the Commission under this subtitle, the Secretary of Agriculture is authorized to use the funds of the Commodity Credit Corporation for such purposes in an amount not to exceed a total of $1,000,000.

(c) The Secretary of Agriculture shall keep, and shall make available for public inspection during normal business hours, records that fully disclose a complete list of every person, group, and entity making a contribution under this section, the address of the contributor, the amount and type of each such contribution, and the date the contribution was made.

(d) Any amount of money available to the Commission under this section that remains unobligated upon termination of the Commission shall be deposited in the Treasury as miscellaneous receipts.

TERMINATION

Sec. 1224.[9] The Commission shall terminate sixty days after the transmission of its final report to the President and Congress.

6. International Carriage of Perishable Foodstuffs Act

Public Law 97–325 [H.R. 6164], 96 Stat. 1603, approved October 15, 1982; amended by Public Law 103–354 [Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994; H.R. 4217], 108 Stat. 3178, approved October 13, 1994

AN ACT To authorize the Secretary of Agriculture to implement the Agreement on the International Carriage of Perishable Foodstuffs and on the Special Equipment to be Used for Such Carriage (ATP), and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "International Carriage of Perishable Foodstuffs Act".

FINDINGS AND PURPOSE

Sec. 2.[1] Congress hereby finds and declares that—

(1) the United States, as a member of the Economic Commission for Europe of the United Nations, participated in development by that Commission of the Agreement on the International Carriage of Perishable Foodstuffs and on the Special Equipment to be Used for Such Carriage;

(2) the agreement requires that equipment involved in the international carriage of perishable foodstuffs be inspected, tested, and certified to specified standards;

(3) this Act will make it possible for equipment in the United States to be inspected, tested, and certified in accordance with the agreement and the standards specified therein; and

(4) this Act will improve the conditions for the movement of perishable foodstuffs in international carriage in equipment owned or operated by United States firms, which will serve to protect existing trade and promote expansion of trade in perishable foodstuffs, and will improve the sale of United States manufactured equipment for use in international carriage.

DEFINITIONS

Sec. 3.[2] As used in this Act—

(1) The term "agreement" means the Agreement on the International Carriage of Perishable Foodstuffs and on the Special Equipment to be Used for Such Carriage, and the annexes and the appendices thereto, done at Geneva, September 1, 1970, under the auspices of the Economic Commission for Europe of the United Nations.

(2) The term "contracting party" means any country that is eligible under article 9 of the agreement and that has complied with the terms of such article.

[1] 7 U.S.C. 4401.
[2] 7 U.S.C. 4402.

(3) The term "equipment" means the special transport equipment that complies with the definitions and standards set forth in annex 1 to the agreement, including, but not limited to, railway cars, trucks, trailers, semitrailers, and intermodal freight containers that are insulated only, or insulated and equipped with a refrigerating, mechanically refrigerating, or heating appliance.

(4) The term "perishable foodstuffs" means quick deep-frozen and frozen food products listed in annex 2 and food products listed in annex 3 to the agreement.

(5) The term "international carriage" means transportation of perishable foodstuffs if such foodstuffs are loaded in equipment or the equipment containing them is loaded onto a rail or road vehicle, in the territory of any country and such foodstuffs are, or the equipment containing them is, unloaded in the territory of another country that is a contracting party, where such transportation is by—

(A) rail,

(B) road,

(C) any combination of rail and road, or

(D) any sea crossing of less than one hundred and fifty kilometers, if preceded or followed by one or more land journeys as referred to in clauses (A), (B), and (C) of this paragraph, and the perishable foodstuffs are shipped in the same equipment used for such land journeys without transloading of such foodstuffs.

In the case of any transportation that involves one or more sea crossings other than as specified in clause (D) of this paragraph, each land journey shall be considered separately.

(6) The term "United States" means the fifty States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands of the United States, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States.

DUTIES OF THE SECRETARY OF AGRICULTURE

Sec. 4.[3] The Secretary of Agriculture of the United States shall be the competent authority to implement the agreement. To ensure compliance with the standards specified in the agreement, the Secretary of Agriculture may—

(1) designate appropriate organizations to inspect or test equipment, or both;

(2) issue certificates of compliance in accordance with annex 1, appendix 1, paragraph 4 of the agreement;

(3) prescribe such regulations as may be necessary to implement the agreement and administer this Act, including, but not limited to, provision for suspending or denying the designation of any organization to inspect or test equipment and for denying the issuance of certificates of compliance as may be necessary to ensure compliance with the provisions of this Act and the regulations issued thereunder;

[3] 7 U.S.C. 4403.

(4) make periodic onsite inspections of facilities and procedures used by those seeking certificates of compliance and by organizations designated to test or inspect equipment under this Act;

(5) require submission of reports by those seeking certificates of compliance and by organizations designated to test or inspect equipment under this Act;

(6) require maintenance of records by those seeking certificates of compliance and by organizations designated to test or inspect equipment under this Act, such records to be made available to the Secretary upon request;

(7) inform contracting parties, through the Secretary of State of the United States, of all general measures taken in connection with the implementation of the agreement; and

(8) take such other action as may be considered appropriate to implement the agreement and administer this Act.

DUTIES OF THE SECRETARY OF STATE

Sec. 5.[4] The Secretary of State, with the concurrence of the Secretary of Agriculture, may take such action as may be considered appropriate to assert and protect the rights of the United States under the agreement.

FEES FOR TESTING, INSPECTION OR CERTIFICATION

Sec. 6.[5] (a) Any organization designated by the Secretary of Agriculture to test or inspect equipment may establish reasonable fees to cover the costs of such testing or inspection. Such fees shall be payable directly to the organization by those seeking inspection or testing.

(b) The Secretary of Agriculture may, effective October 1, 1982, fix and cause to be collected reasonable fees to cover, as nearly as practicable, the costs to the Department of Agriculture incurred in connection with the issuance of certificates of compliance as provided under section 4(2) of this Act. All fees collected shall be credited to the current appropriation account that incurs the cost and shall be available without fiscal year limitation to pay the expenses of the Secretary of Agriculture incident to the issuance of certificates of compliance under this Act.

AUTHORIZATION FOR APPROPRIATIONS

Sec. 7.[6] There are authorized to be appropriated to the Secretary of Agriculture for the fiscal year beginning October 1, 1982, and for each fiscal year thereafter, such sums as are necessary to carry out the provisions of this Act, but not to exceed $100,000 in any fiscal year.

[4] 7 U.S.C. 4404.
[5] 7 U.S.C. 4405.
[6] 7 U.S.C. 4406.

ASSISTANT SECRETARY OF AGRICULTURE

Sec. 8.[7] * * * [Repealed—1994]

[7] Formerly at 7 U.S.C. 2212c. Sec. 218 of the Department of Agriculture Reorganization Act of 1994 (Public Law 103–354; 108 Stat. 3212) authorized the Secretary of Agriculture to establish Assistant Secretaries for Congressional Relations, Administration, and Marketing and Regulatory Programs, and repealed sections in law superseded by such authorization. See 7 U.S.C. 6918.

7. Pesticide Monitoring Improvements Act of 1988

Partial text of Title IV of Public Law 100–418 [H.R. 4848], 102 Stat. 1107 at 1411, approved August 23, 1988

AN ACT To enhance the competitiveness of American industry, and for other purposes.

* * * * * * *

SUBTITLE G—PESTICIDE MONITORING IMPROVEMENTS

SEC. 4701.[1] SHORT TITLE.

This subtitle may be cited as the "Pesticide Monitoring Improvements Act of 1988".

SEC. 4702. * * *

SEC. 4703.[2] FOREIGN PESTICIDE INFORMATION.

(a) COOPERATIVE AGREEMENTS.—The Secretary of Health and Human Services shall enter into cooperative agreements with the governments of the countries which are the major sources of food imports into the United States subject to pesticide residue monitoring by the Food and Drug Administration for the purpose of improving the ability of the Food and Drug Administration to assure compliance with the pesticide tolerance requirements of the Federal Food, Drug, and Cosmetic Act with regard to imported food.

(b) INFORMATION ACTIVITIES.—

(1) The cooperative agreements entered into under subsection (a) with governments of foreign countries shall specify the action to be taken by the parties to the agreements to accomplish the purpose described in subsection (a), including the means by which the governments of the foreign countries will provide to the Secretary of Health and Human Services current information identifying each of the pesticides used in the production, transportation, and storage of food products imported from production regions of such countries into the United States.

(2) In the case of a foreign country with which the Secretary is unable to enter into an agreement under subsection (a) or for which the information provided under paragraph (1) is insufficient to assure an effective pesticide monitoring program, the Secretary shall, to the extent practicable, obtain the information described in paragraph (1) with respect to such country from other Federal or international agencies or private sources.

(3) The Secretary of Health and Human Services shall assure that appropriate offices of the Food and Drug Administration which are engaged in the monitoring of imported food for

[1] 21 U.S.C. 1401 note.
[2] 21 U.S.C. 1402.

pesticide residues receive the information obtained under paragraph (1) or (2).

(4) The Secretary of Health and Human Services shall make available any information obtained under paragraph (1) or (2) to State agencies engaged in the monitoring of imported food for pesticide residues other than information obtained from private sources the disclosure of which to such agencies is restricted.

(c) COORDINATION WITH OTHER AGENCIES.—The Secretary of Health and Human Services shall—

(1) notify in writing the Department of Agriculture, the Environmental Protection Agency, and the Department of State at the initiation of negotiations with a foreign country to develop a cooperative agreement under subsection (a); and

(2) coordinate the activities of the Department of Health and Human Services with the activities of those departments and agencies, as appropriate, during the course of such negotiations.

(d) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Health and Human Services shall report to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Labor and Human Resources of the Senate and the House of Representatives on the activities undertaken by the Secretary to implement this section. The report shall be made available to appropriate Federal and State agencies and to interested persons.

* * * * * * *

C. THE PEACE CORPS

CONTENTS

Page

1. The Peace Corps Act, as amended (Public Law 87–293) 1551
2. Establishment of the Peace Corps as an Independent Agency (Public Law 97–113) (partial text) 1581
3. Paul D. Coverdell Programs 1584
   a. Paul D. Coverdell Peace Corps Headquarters (Public Law 107–21) ... 1584
   b. Paul D. Coverdell World Wise Schools Act of 2000 (Public Law 106–570) (partial text) 1585
   c. Paul D. Coverdell Fellows Program Act of 2000 (Public Law 106–309) (partial text) 1587
4. Peace Corps Reauthorization 1588
   a. Peace Corps Authorization for Fiscal Years 1994 and 1995 (Public Law 103–236) (partial text) 1588
   b. Peace Corps Authorization for Fiscal Year 1993 (Public Law 102–565) (partial text) 1589
   c. Peace Corps Authorization for Fiscal Years 1986 and 1987 (Public Law 99–83) (partial text) 1592
5. Independent Implementing Provisions of Public Law 89–134 1594
6. Higher Education Amendments of 1986 (Public Law 99–498) (partial text) 1596
7. National and Community Service Act of 1990 (Public Law 101–610) (partial text) 1597
8. The Peace Corps—Establishment as Agency Within ACTION (Executive Order 12137) 1605
9. Providing for the Appointment of Former Peace Corps Volunteers to the Civilian Civil Service (Executive Order 11103) 1610

The Peace Corps was initially established pursuant to Executive Order 10924, March 1, 1961, 26 F.R. 1789, as an agency in the Department of State, under authority of the Mutual Security Act of 1954, as amended. Pursuant to that order, Department of State Delegation of Authority No. 85–11, March 3, 1961, 26 F.R. 2196, and Department of State Redelegation of Authority No. 85–10B, March 4, 1961, 26 F.R. 2196, the Peace Corps was empowered to exercise authority under section 400(a) of the Mutual Security Act of 1954, as amended ("Special Assistance"), and under certain other provisions of that act. Its operations were funded from appropriations available under the Mutual Security Act and Mutual Security Program funds appropriated by the joint resolution making temporary appropriations for fiscal year 1962. The authorities, functions, offices, personnel, property, records, and funds available to the Peace Corps were preserved, pending enactment of the Peace Corps Act, by section 643(d) of the Foreign Assistance Act of 1961, notwithstanding the repeal by that act of much of the Mutual Security Act of 1954, as amended. Section 643(d) was repealed by the Foreign Assistance Act of 1962. Pursuant to Executive Order 11603 of July 1, 1971 (36 F.R. 12675), the Peace Corps was transferred to the agency created by Reorganization Plan No. 1 of 1971 and designated as ACTION. The ACTION Agency was established by law under Title IV of the Domestic Volunteer Service Act of 1973. Executive Order 12137 of May 16, 1979 superseded Executive Order 11603 but continued the policy of the Peace Corps operating as an agency within ACTION. Sec. 601 of the International Security and Development Cooperation Act of 1981 (Public Law 97–113), in amending the Peace Corps Act, removed the Peace Corps from ACTION and established the Peace Corps as an independent agency within the executive branch, effective December 29, 1981. All functions relating to the Peace Corps previously vested in the Director of ACTION were transferred to the Director of the Peace Corps on the day before the effective date.

1. The Peace Corps Act, as amended

Public Law 87–293 [H.R. 7500], 75 Stat. 612, 22 U.S.C. 2501–2523, approved September 22, 1961; as amended by Public Law 87–442 [H.R. 10700], 76 Stat. 62, approved April 27, 1962; Public Law 87–793 [H.R. 7927], 76 Stat. 632, approved October 11, 1962; Public Law 88–200 [H.R. 9009], 77 Stat. 359, approved December 13, 1963; Public Law 88–285 [S. 2455], 78 Stat. 166, approved March 17, 1965; Public Law 88–426 [H.R. 11049], 78 Stat. 400, approved August 14, 1964; Public Law 88–448 [H.R. 7381], 78 Stat. 484, approved August 19, 1964; Public Law 89–134 [S. 2054], 79 Stat. 59, approved August 24, 1965; Public Law 89–554 [H.R. 10104], 80 Stat. 378, approved September 6, 1966; Public Law 89–572 [S. 3418], 80 Stat. 764, approved September 13, 1966; Public Law 90–175 [S. 1031], 81 Stat. 542, approved December 5, 1967; Public Law 90–362 [S. 2914], 82 Stat. 250, approved June 27, 1968; Public Law 91–99 [H.R. 11039], 83 Stat. 166, approved October 29, 1969; Public Law 91–352 [S. 3430], 84 Stat. 464, approved July 24, 1970; Public Law 92–135 [S. 2260], 85 Stat. 376, approved October 8, 1971; Public Law 92–352 [H.R. 14734], 86 Stat. 489, approved July 13, 1972; Public Law 93–49 [H.R. 5293], 87 Stat. 99, approved June 25, 1973; Public Law 93–302 [H.R. 12920], 88 Stat. 191, approved June 1, 1974; Public Law 94–130 [H.R. 6334], 89 Stat. 684, approved November 14, 1975; Public Law 94–274 [S. 2444], 90 Stat. 383, approved April 21, 1976; by Public Law 94–281 [H.R. 12226], 90 Stat. 458, approved May 7, 1976; Public Law 95–102 [S. 1235] 91 Stat. 841, approved August 15, 1977; Public Law 95–331 [H.R. 11877], 92 Stat. 414, approved August 2, 1978; Public Law 96–53 [International Development Cooperation Act of 1979; H.R. 3324], 93 Stat. 359 at 370, approved August 14, 1979; Public Law 96–465 [Foreign Service Act of 1980; H.R. 6790], 94 Stat. 2071 at 2157 and 2160, approved October 17, 1980; Public Law 96–533 [International Security and Development Cooperation Act of 1980; H.R. 6942], 94 Stat. 3131 at 3155, approved December 16, 1980; Public Law 97–113 [International Security and Development Cooperation Act of 1981; S. 1196], 95 Stat. 1519 at 1540, approved December 29, 1981; Public Law 97–387 [S. 2611], 96 Stat. 1947, approved December 23, 1982; Public Law 98–473 [Continuing Appropriations Act, 1985; H.J. Res. 648], 98 Stat. 1837, approved October 12, 1984; by Public Law 99–83 [International Security and Development Cooperation Act of 1985; S. 960], 99 Stat. 190 at 272, approved August 8, 1985, by Public Law 99–399 [Omnibus Diplomatic Security and Antiterrorism Act of 1986; H.R. 4151], 100 Stat. 897, approved August 27, 1986; Public Law 100–202 [Continuing Appropriations Act for Fiscal Year 1988; H.J. Res. 395], 101 Stat. 1329, approved December 22, 1987; Public Law 102–511 [FREEDOM Support Act; S. 2532], 106 Stat. 3320, approved October 24, 1992; Public Law 102–565 [S. 3309], 106 Stat. 4265, approved October 28, 1992; Public Law 103–82 [National and Community Service Trust Act of 1993; H.R. 2010], 107 Stat. 785, approved September 21, 1993; Public Law 103–236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994; Public Law 104–208 [Omnibus Consolidated Appropriations Act, 1997; H.R. 3610], 110 Stat. 3009, approved September 30, 1996; Public Law 105–12 [Assisted Suicide Funding Restriction Act of 1997; H.R. 1003], 111 Stat. 23, approved April 30, 1997; Public Law 106–30 [H.R. 669], 113 Stat. 55, approved May 21, 1999; and by Public Law 107–107 [National Defense Authorization Act for Fiscal Year 2002; S. 1438], 115 Stat. 1012, approved December 28, 2001

AN ACT To provide for a Peace Corps to help the peoples of interested countries and areas in meeting their needs for skilled manpower.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—THE PEACE CORPS

SHORT TITLE

Section 1.[1] This Act may be cited as the "Peace Corps Act".

DECLARATION OF PURPOSE

Sec. 2.[2] (a)[3] The Congress of the United States declares that it is the policy of the United States and the purpose of this Act to promote world peace and friendship through a Peace Corps, which shall make available to interested countries and areas men and women of the United States qualified for service abroad and willing to serve, under conditions of hardship if necessary, to help the peoples of such countries and areas in meeting their needs for trained manpower, particularly in meeting the basic needs of those living in the poorest areas of such countries,[4] and to help promote a better understanding of the American people on the part of the peoples served and a better understanding of other peoples on the part of the American people.

(b)[3] The Congress declares that it is the policy of the United States and a purpose of the Peace Corps to maintain, to the maximum extent appropriate and consistent with programmatic and fiscal considerations, a volunteer corps of at least 10,000 individuals.

PEACE CORPS AS AN INDEPENDENT AGENCY

Sec. 2A.[5] Effective on the date of the enactment of the International Security and Development Cooperation Act of 1981, the Peace Corps shall be an independent agency within the executive branch and shall not be an agency within the ACTION Agency, the successor to the ACTION Agency,[6] or any other department or agency of the United States.

AUTHORIZATION

Sec. 3.[7] (a) The President is authorized to carry out programs in furtherance of the purposes of this Act, on such terms and conditions as he may determine.

(b)[8] (1) There are authorized to be appropriated to carry out the purposes of this Act $270,000,000 for fiscal year 2000, $298,000,000

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[1] 22 U.S.C. 2501 note.

[2] 22 U.S.C. 2501.

[3] The subsec. designation "(a)" and a new subsec. (b) were added by sec. 1102(a) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 272).

[4] Sec. 2 of Public Law 95–331 (92 Stat. 414) inserted "particularly in meeting the basic needs of those living in the poorest areas of such countries".

[5] 22 U.S.C. 2501–1; added by sec. 601(a) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1540). For additional information concerning the establishment of the Peace Corps as an independent agency, see sec. 601 of Public Law 97–113.

[6] Sec. 405(e) of the National and Community Service Trust Act of 1993 (Public Law 103–82; 107 Stat. 921) inserted ", the successor to the ACTION Agency," after "the ACTION Agency".

[7] 22 U.S.C. 2502.

[8] Sec. 1 of Public Law 106–30 (113 Stat. 55) amended and restated subsec. (b). Sec. 601 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (108 Stat. 490), without amending this section, authorized to be appropriated $219,745,000 for fiscal year 1994 and $234,745,000 for fiscal year 1995 to carry out this Act. Previously, sec. 1 of Public Law 102–565 (106 Stat. 4265) amended and restated subsec. (b).

for fiscal year 2001, $327,000,000 for fiscal year 2002, and $365,000,000 for fiscal year 2003.

(2) Amounts authorized to be appropriated under paragraph (1) for a fiscal year are authorized to remain available for that fiscal year and the subsequent fiscal year.

(c)[9] In addition to the amount authorized to be appropriated by subsection (b) to carry out the purposes of this Act, there are authorized to be appropriated for increases in salary, pay, retirement, or other employee benefits authorized by law, each fiscal year,[10] such sums as may be necessary.

(d)[11] * * * [Repealed—1981]

(e)[11] * * * [Repealed—1981]

(f)[11] * * * [Repealed—1981]

Authorizations in prior years for the Peace Corps include: fiscal year 1976—$88,468,000; fiscal year 1977T—$27,887,800; fiscal year 1977—$81,000,000; fiscal year 1978—$86,544,000 (increased from $82,900,000 by Public Law 95–331); fiscal year 1979—$112,424,000; fiscal year 1980—$105,404,000; fiscal year 1981—$118,000,000; fiscal year 1982—$105,000,000; fiscal year 1983—$105,000,000; fiscal year 1984—$116,000,000; fiscal year 1985—none enacted; fiscal year 1986—$130,000,000; fiscal year 1987—$137,200,000; fiscal years 1988–1992—none enacted; fiscal year 1993—$218,146,000; fiscal year 1994—$219,745,000; fiscal year 1995—$234,745,000; fiscal years 1996–1999—none enacted; fiscal years 2004–2005—none enacted.

Titles II and V of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division d of Public Law 108–447; 118 Stat. 2979, 2991), provided the following:

"PEACE CORPS

"For necessary expenses to carry out the provisions of the Peace Corps Act (75 Stat. 612), $320,000,000, including the purchase of not to exceed five passenger motor vehicles for administrative purposes for use outside of the United States: *Provided,* That none of the funds appropriated under this heading shall be used to pay for abortions: *Provided further,* That funds appropriated under this heading shall remain available until September 30, 2006.

* * * * * * *

"LIMITATION ON REPRESENTATIONAL ALLOWANCES

"SEC. 505. Of the funds appropriated or made available pursuant to this Act, * * * *Provided further,* That of the funds made available by this Act for the Peace Corps, not to exceed a total of $4,000 shall be available for entertainment expenses:".

See also sec. 515, notification requirements (118 Stat. 2995), and sec. 532, authorities for Peace Corps, and other agencies (118 Stat. 3005).

[9] Sec. 2 of Public Law 93–302 (88 Stat. 191) added subsec. (c). It was subsequently amended by sec. 2 of Public Law 94–130, sec. 2 of Public Law 94–281, and Public Law 95–102 (91 Stat. 841).

[10] The reference to "each fiscal year" was inserted in lieu of a reference to fiscal year 1981 by sec. 602(b) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1542). Authorizations for prior years under this subsection included: fiscal years 1978—$1,069,000 (increased from $1,000,000 by Public Law 95–331; 92 Stat. 414); fiscal years 1979, 1980, and 1981—"such sums as may be necessary".

[11] Sec. 601(e)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1542) repealed subsecs. (d), (e), and (f). Sec. 601(e)(2) of Public Law 97–113 further stated that such repeals shall not affect "(A) the validity of any action taken before the date of the enactment of this Act [Dec. 29, 1981] under those provisions of law repealed by that amendment, or (B) the liability of any person for any payment described in section 3(f) of the Peace Corps Act as in effect immediately before the date of the enactment of this Act.". Subsec. (d), as added by sec. 2 of Public Law 93–302 (88 Stat. 191) and amended by sec. 3 of Public Law 94–130 (89 Stat. 684), had stipulated that the Director of ACTION should transfer by Dec. 31, 1975, $315,000 from the fiscal year 1976 appropriations to the readjustment allowance, ACTION, account at the Treasury Department in order to rectify the imbalance in the Peace Corps readjustment allowance account for the period Mar. 1, 1961, to Feb. 28, 1973. Subsec. (e), as added by sec. 2 of Public Law 93–302 (88 Stat. 191), had authorized the Director of ACTION to waive claims resulting from erroneous payments of readjustment allowances to Peace Corps volunteers who terminated their service between Mar. 1, 1961, and Feb. 28, 1973. Subsec. (f), also added by sec. 2 of Public Law 93–302 (88 Stat. 191), had relieved disbursing and certifying officers of the Peace Corps and ACTION from liability for improper or incorrect payment of readjustment allowances made to Volunteers between Mar. 1, 1961, and Feb. 28, 1973, except in the case of fraud.

(d)[12] In recognition of the fact that women in developing countries play a significant role in economic production, family support, and the overall development process, the Peace Corps shall be administered so as to give particular attention to those programs, projects, and activities which tend to integrate women into the national economics of developing countries, thus improving their status and assisting the total development effort.

(h)[13] In recognition of the fact that there are over 400,000,000 disabled people in the world, 95 percent of whom are among the poorest of the poor, the Peace Corps shall be administered so as to give particular attention to programs, projects, and activities which tend to integrate disabled people into the national economies of developing countries, thus improving their status and assisting the total development effort.

DIRECTOR OF THE PEACE CORPS AND DELEGATION OF FUNCTIONS

Sec. 4.[14] (a) The President may appoint, by and with the advice and consent of the Senate, a Director of the Peace Corps[15] and a Deputy Director of the Peace Corps.[15]

(b)[16] The President may exercise any functions vested in him by this Act through the Director of the Peace Corps. The Director of the Peace Corps may promulgate such rules and regulations as he may deem necessary or appropriate to carry out such functions, and may delegate to any of his subordinates authority to perform any of such functions.

(c)(1) Nothing contained in this Act shall be construed to infringe upon the powers or functions of the Secretary of State.

(2) The President shall prescribe appropriate procedures to assure coordination of Peace Corps activities with other activities of the United States Government in each country, under the leadership of the chief of the United States diplomatic mission.

(3) Under the direction of the President, the Secretary of State shall be responsible for the continuous supervision and general direction of the programs authorized by this Act, to the end that such programs are effectively integrated both at home and abroad and the foreign policy of the United States is best served thereby.

(4)[17] The Director of the Peace Corps may prescribe such regulations as may be necessary to assure that no individual performing service for the Peace Corps under any authority contained in this Act shall engage in any activity determined by the Director to be detrimental to the best interest of the United States.

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[12] Subsec. (d), originally added as subsec. (g) by sec. 3(3) of Public Law 95–331 (92 Stat. 414), was redesignated as subsec. (d) by sec. 601(e)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1542).

[13] Sec. 603 of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1542) added subsec. (h).

[14] 22 U.S.C. 2503.

[15] Sec. 305(27) of the Government Employees Salary Reform Act of 1964 (Public Law 88–426; 78 Stat. 426) repealed ", whose compensation shall be fixed by the President at a rate not in excess of $20,000 per annum," and ", whose compensation shall be fixed by the President at a rate not in excess of $19,500 per annum", at these points, respectively.

[16] Sec. 601(d)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1541) inserted references in subsec. (b) to the Director of the Peace Corps in lieu of references to the head of any agency or any officer of the United States Government.

[17] Sec. 2 of Public Law 91–352 (84 Stat. 426) added para. (4). The function prescribed in this paragraph was transferred to the President by sec. 2(b) of Reorganization Plan No. 1 of 1971.

(d) Except with the approval of the Secretary of State, the Peace Corps shall not be assigned to perform services which could more usefully be performed by other available agencies of the United States Government in the country concerned.

PEACE CORPS VOLUNTEERS

Sec. 5.[18] (a) The President may enroll in the Peace Corps for service abroad qualified citizens and nationals of the United States (referred to in this Act as "volunteers"). The terms and conditions of the enrollment, training, compensation, hours of work, benefits, leave, termination, and all other terms and conditions of the service of volunteers shall be exclusively those set forth in this Act and those consistent therewith which the President may prescribe; and, except as provided in this Act, volunteers shall not be deemed officers or employees or otherwise in the service or employment of, or holding office under, the United States for any purpose. In carrying out this subsection there shall be no discrimination against any person on account of race, sex, creed, or color.[19]

(b) Volunteers shall be provided with such living, travel, and leave allowances, and such housing, transportation, supplies, equipment, subsistence, and clothing as the President may determine to be necessary for their maintenance and to insure their health and their capacity to serve effectively. Supplies or equipment provided volunteers to insure their capacity to serve effectively may be transferred to the government or to other entities of the country or area with which they have been serving, when no longer necessary for such purpose, and when such transfers would further the purposes of this Act.[20] Transportation and travel allowances may also be provided in such circumstances as the President may determine, or applicants for enrollment to or from places of training and places of enrollment, and for former volunteers from places of termination to their homes in the United States.

(c)[21] Volunteers shall be entitled to receive a readjustment allowance at a rate not less than $125[22] for each month of satisfactory service as determined by the President.[23] The readjustment allowance of each volunteer shall be payable on his return to the United

[18] 22 U.S.C. 2504. Sec. 4 of Public Law 94–130 (89 Stat. 684) added "sex" to the bases for nondiscrimination.

[19] Sec. 1105(b) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 276) struck out the prohibition that "no political request shall be required to be taken into consideration" from this sentence.

[20] Sec. 2(a) of Public Law 88–200 (77 Stat. 359) added this sentence.

[21] Sec. 2(b) of Public Law 88–200 (77 Stat. 359) substituted this language, except for the final sentence, for former subsec. (c), which read as follows:

"(c) Volunteers shall be entitled to receive termination payments at a rate not to exceed $75 for each month of satisfactory service as determined by the President. The termination payment of each volunteer shall be payable at the termination of his service, or may be paid during the course of his service to the volunteer, to members of his family or to others, under such circumstances as the President may determine. In the event of the volunteer's death during the period of his service, the amount of any unpaid termination payment shall be paid in accordance with the provisions of section 61f of title 5 of the United States Code.".

The final sentence was added by sec. 2(a) of Public Law 89–134.

[22] Sec. 606 of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1543) struck out "not to exceed $125" and inserted in lieu thereof "not less than $125".

[23] A phrase, which had been added by sec. 2(b) of Public Law 91–352 and had previously appeared at this point, was struck by sec. 4(1) of Public Law 95–331 (92 Stat. 414). It formerly read as follows: "except that, in the cases of volunteers who have one or more minor children

Continued

States: *Provided, however,* That, under such circumstances as the President may determine, the accrued readjustment allowance, or any part thereof, may be paid to the volunteer, members of his family or others, during the period of his service, or prior to his return to the United States. In the event of the volunteer's death during the period of his service, the amount of any unpaid readjustment allowance shall be paid in accordance with the provisions of section 5582(b) of title 5, United States Code. For purposes of the Internal Revenue Code of 1954 (26 U.S.C.), a volunteer shall be deemed to be paid and to receive each amount of a readjustment allowance to which he is entitled after December 31, 1964, when such amount is transferred from funds made available under this Act to the fund from which such readjustment allowance is payable.

(d)[24] * * * [Repealed—1966]

(e)[25] Volunteers shall receive such health care during their service, applicants for enrollment shall receive such health examinations preparatory to their service, applicants for enrollment who have accepted an invitation to begin a period of training under section 8(a) of this Act shall receive such immunization and dental care preparatory to their service, and former volunteers shall receive such health examinations within six months after termination of their service, as the President may deem necessary or appropriate. Subject to such conditions as the President may prescribe, such health care may be provided in any facility of any

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at the time of their entering a period of preenrollment training, one parent shall be entitled to receive a readjustment allowance at a rate not to exceed $125 for each month of satisfactory service as determined by the President.".

[24] Sec. 8(a) of Public Law 89–554 (80 Stat. 661) repealed subsec. (d), which related to Federal Employees' Compensation Act coverage and enacted a substantially identical provision at 5 U.S.C. 8142, which reads, amended, as follows:

"(a) For the purpose of this section, 'volunteer' means—

"(1) a volunteer enrolled in the Peace Corps under section 2504 of title 22;

"(2) a volunteer leader enrolled in the Peace Corps under section 2505 of title 22;

"(3) an applicant for enrollment as a volunteer or volunteer leader during a period of training under section 2507(a)(of title 22 before enrollment.

"(b) Subject to the provisions of this section, this subchapter applies to a volunteer, except that entitlement to disability compensation payments does not commence until the day after the date of termination of his services as a volunteer.

"(c) For the purposes of this subchapter—

"(1) a volunteer is deemed receiving monthly pay at the minimum rate for GS–7;

"(2) a volunteer leader referred to by section 2505 of title 22, or a volunteer with one or more minor children as defined in section 2504 of title 22, is deemed receiving monthly pay at the minimum rate for GS–11;

"(3) an injury suffered by a volunteer when he is outside the several States and the District of Columbia is deemed proximately caused by his employment, unless the injury or disease is—

"(A) caused by willful misconduct of the volunteer;

"(B) caused by the volunteer's intention to bring about the injury or death of himself or of another; or

"(C) proximately caused by the intoxication of the injured volunteer; and

"(4) the period of service of an individual as a volunteer includes—

"(A) any period of training, under section 2507(a) of title 22 before enrollment as a volunteer; and

"(B) the period between enrollment as a volunteer and the termination of service as a volunteer by the President or by death or resignation.".

[25] Sec. 2(b) of Public Law 89–134 (79 Stat. 549) substantially amended this subsection which previously read as follows:

"(e) Volunteers shall receive such health care during their service and such health examinations and immunization preparatory to their service, as the President may deem necessary or appropriate. Subject to such conditions as the President may prescribe, such health care, examinations, and immunizations may be provided for volunteers in any facility of any agency of the United States Government, and in such cases the appropriation for maintaining and operating such facility shall be reimbursed from appropriations available under this Act.".

agency of the United States Government, and in such cases the appropriation for maintaining and operating such facility shall be reimbursed from appropriations available under this Act. Health care may not be provided under this subsection in a manner inconsistent with the Assisted Suicide Funding Restriction Act of 1997.[26]

(f)[27] (1) Any period of satisfactory service of a volunteer under this Act shall be credited in connection with subsequent employment in the same manner as a like period of civilian employment by the United States Government—

(A) for the purposes of section 816(a) of the Foreign Service Act of 1980[28] and every other Act establishing a retirement system for civilian employees of any United States Government agency; and

(B) except as otherwise determined by the President, for the purposes of determining seniority, reduction in force, and layoff rights, leave entitlement, and other rights and privileges based upon length of service under the laws administered by the Office of Personnel Management,[29] the Foreign Service Act of 1980, and every other Act establishing or governing terms and conditions of service of civilian employees of the United States Government: *Provided,* That service of a volunteer shall not be credited toward completion of any probationary or trial period or completion of any service requirement for career appointment.

(2) For the purposes of paragraph (1)(A) of this subsection, volunteers and volunteer leaders shall be deemed to be receiving compensation during their service at the respective rates of readjustment allowances[30] payable under sections 5(c) and (6)(1) of this Act.

(g) The President may detail or assign volunteers or otherwise make them available to any entity referred to in paragraph (1) of section 10(a) on such terms and conditions as he may determine: *Provided,* That not to exceed two hundred volunteers may be assigned to carry out secretarial or clerical duties on the staffs of the

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[26] Sec. 9(j) of the Assisted Suicide Funding Restriction Act of 1997 (Public Law 105–12; 111 Stat. 27) added the last sentence to subsec. (e).

[27] Sec. 8(a) of Public Law 89–554 (80 Stat. 661) repealed subsec. (f) insofar as it applied to the Civil Service Retirement Act, as amended, and enacted a provision, 5 U.S.C. 8332(b), which provides the same benefit. 5 U.S.C. 8332(b), in pertinent part reads as follows:

"(b) The service of an employee shall be credited from the date of original employment to the date of separation on which title to annuity is based in the civilian service of the Government. Except as provided in paragraph (13) of this subsection, credit may not be allowed for a period of separation from the service in excess of 3 calendar days. The service includes—* * *

"(5) a period of satisfactory service of a volunteer or volunteer leader under chapter 34 of title 22 only if he later becomes subject to this subchapter. * * * For the purpose of paragraph (5) of this subsection—

"(A) a volunteer and a volunteer leader are deemed receiving pay during their service at the respective rates of readjustment allowances payable under sections 2504(c) and 2505(1) of title 22; and

"(B) the period of an individual's service as a volunteer or volunteer leader under chapter 34 of title 22 is the period between enrollment as a volunteer or volunteer leader and the termination of that service by the President or by death or resignation.".

[28] Sec. 2202(a) of Public Law 96–465 (94 Stat. 2157) struck out "Foreign Service Act of 1946" and inserted in lieu thereof "Foreign Service Act of 1980".

[29] Sec. 2(b)(1) of Public Law 106–30 (113 Stat. 55) struck out "Civil Service Commission" and inserted in lieu thereof "Office of Personnel Management".

[30] Sec. 2(c) of Public Law 88–200 (77 Stat. 359) struck out "termination payments" and inserted in lieu thereof "readjustment allowances".

Peace Corps representatives abroad:[31] *Provided, however,* That any volunteer so detailed or assigned shall continue to be entitled to the allowances, benefits and privileges of volunteers authorized under or pursuant to this Act.

(h)[32] Volunteers shall be deemed employees of the United States Government for the purposes of the Federal Tort Claims Act[33] and any other Federal tort liability statute,[34] section 3342 of title 31, United States Code, section 5732 and[35] section 5584 of title 5, United States Code (and readjustment allowances paid under this Act shall be considered as pay for purposes of such section,[36] and section 1 of the Act of June 4, 1920 (41 Stat. 750), as amended (22 U.S.C. 214).[37]

(i) The service of a volunteer may be terminated at any time at the pleasure of the President.

(j) Upon enrollment in the Peace Corps, every volunteer shall take the oath prescribed for persons appointed to any office of honor or profit by section 3331 of title 5, United States Code.[38]

(k)[39] In order to assure that the skills and experience which former volunteers have derived from their training and their service abroad are best utilized in the national interest, the President may, in cooperation with agencies of the United States, private employers, educational institutions and other entities of the United

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[31] Sec. 2(d) of Public Law 88–200 (77 Stat. 359) added the first proviso. Sec. 2(e) of Public Law 89–134 (79 Stat. 549) struck out "one" and inserted in lieu thereof "two"; and struck out "in the aggregate" after "volunteers" in this proviso.

[32] Sec. 8(a) of Public Law 89–554 (80 Stat. 661) repealed subsec. (h) insofar as it applied to the Act of June 4, 1954, ch. 264, sec. 4, which related to the payment or reimbursement of general average contribution from appropriation chargeable to certain types of transportation. Public Law 89–554 also enacted a provision which provided the same benefit (5 U.S.C. 5732) which read as follows: "Under such regulations as the President may prescribe, appropriations chargeable for the transportation of baggage and household goods and personal effects of employees of the United States, volunteers as defined by section 8142(a) of this title, and members of the uniformed services are available for the payment or reimbursement of general average contributions required. Appropriations are not available for the payment or reimbursement of general average contributions—

"(1) required in connection with and applicable to quantities of baggage and household goods and personal effects in excess of quantities authorized by statute or regulation to be transported;

"(2) when the individual concerned is allowed under statute of regulation a commutation instead of actual transportation expenses; or

"(3) when the individual concerned selected the means of shipment.".

[33] 28 U.S.C. 2671–2680 and notes.

[34] Sec. 2(e) of Public Law 88–200 (77 Stat. 359) struck out "and for the purposes of" and inserted in lieu thereof "the Federal Voting Assistance Act of 1955 (5 U.S.C. 2171 et seq.), the Act of June 4, 1954, chapter 264, section 4 (5 U.S.C. 73b–5); and".

[35] Sec. 2(b)(2) of Public Law 106–30 (113 Stat. 55) struck out "the Federal Voting Assistance Act of 1955 (5 U.S.C. 2171 et seq.), the Act of June 4, 1954, chapter 264, section 4 (5 U.S.C. 73b–75), the Act of December 23, 1944, chapter 716, section 1, as amended (31 U.S.C. 492a)," and inserted in lieu thereof "section 3342 of title 31, United States Code, section 5732 and". Previously, the reference to the Act of Dec. 23, 1944, was added by sec. 2(d) of Public Law 89–134 (79 Stat. 549).

[36] Sec. 2 of Public Law 91–99 (83 Stat. 166) added the reference to sec. 5584 of title 5, United States Code.

[37] The final two sentences of subsec. (h), as added by sec. 4(2) of Public Law 95–331 (92 Stat. 414) and amended by sec. 2202(a)(2) of Public Law 96–465 (94 Stat. 2157), were struck out by sec. 604(b) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1543). These sentences concerned malpractice protection for Peace Corps volunteers and can now be found at sec. 10(j) of this Act.

[38] Sec. 2(b)(3) of Public Law 106–30 (113 Stat. 55) struck out "section 1757 of the Revised Statutes of the United States, as amended (5 U.S.C. 16) and shall swear (or affirm) that he does not advocate the overthrow of our constitutional form of government in the United States, and that he is not a member of an organization that advocates the overthrow of our constitutional form of government in the United States, knowing that such organization so advocates." and inserted in lieu thereof "section 3331 of title 5, United States Code.".

[39] Sec. 2(f) of Public Law 88–200 (77 Stat. 360) added subsec. (k).

States, undertake programs under which volunteers would be counseled with respect to opportunities for further education and employment.

(l)[40] Notwithstanding any other provision of law, counsel may be employed and counsel fees, court costs, bail, and other expenses incident to the defense of volunteers may be paid in foreign judicial or administrative proceedings to which volunteers have been made parties.

(m)[41] The minor children of a volunteer living with the volunteer may receive—

(1) such living, travel, education, and leave allowances, such housing, transportation, subsistence, and essential special items of clothing as the President may determine;

(2) such health care, including health care following the volunteer's service for illness or injury incurred during such service, and health and accident insurance, as the President may determine and upon such terms as he may determine, including health care in any facility referred to in subsection (e) of this section, subject to such conditions as the President may prescribe and subject to reimbursement of appropriations as provided in such subsection (e);

(3) such orientation, language, and other training necessary to accomplish the purposes of this Act as the President may determine; and

(4) the benefits of subsection (1) of this section on the same basis as volunteers.

(n)[41] The costs of packing and unpacking, transportation to and from a place of storage, and storing the furniture and household and personal effects of a volunteer who has one or more minor children at the time of his entering a period of pre-enrollment training may be paid from the date of his departure from his place of residence to enter training until no later than three months after termination of his service.

PEACE CORPS VOLUNTEER LEADERS

Sec. 6.[42] The President may enroll in the Peace Corps qualified citizens or nationals of the United States whose services are required for supervisory or other special duties or responsibilities in connection with programs under this Act (referred to in this Act as "volunteer leaders"). The ratio of the total number of volunteer leaders to the total number of volunteers in service at any one time shall not exceed one to twenty-five. Except as otherwise provided in this Act, all of the provisions of this Act applicable to volunteers shall be applicable to volunteer leaders, and the term "volunteers" shall include "volunteer leaders": *Provided, however,* That—

[40] Sec. 2(a) of Public Law 89–572 (80 Stat. 765) added subsec. (l).
[41] Sec. 3(b) of Public Law 91–352 (84 Stat. 464) added subsecs. (m) and (n).
[42] 22 U.S.C. 2505.

(1) volunteer leaders shall be entitled to receive a readjustment allowance at a rate not less than $125[43] for each month of satisfactory service as determined by the President;[44]

(2) spouses and minor children of volunteer leaders may receive such living, travel, and leave allowances, and such housing, transportation, subsistence, and essential special items of clothing, as the President may determine, but authority contained in this paragraph shall be exercised only under exceptional circumstances;

(3) spouses and minor children of volunteer leaders accompanying them may receive such health care as the President may determine and upon such terms as he may determine, including health care in any facility referred to in section 5(e) of this Act, subject to such conditions as the President may prescribe in section 5(e);[45] and

(4) spouses and minor children of volunteer leaders accompanying them may receive such orientation, language, and other training necessary to accomplish the purposes of this Act as the President may determine.

PEACE CORPS EMPLOYEES

Sec. 7.[46] (a)(1) For the purpose of performing functions under this Act outside the United States, the President may employ or assign persons, or authorize the employment or assignment of officers

[43] Sec. 3 of Public Law 88–200 (77 Stat. 360) struck out "termination payments" and inserted in lieu thereof "a readjustment allowance".

Public Law 97–387 (96 Stat. 1947) struck out "not to exceed" and inserted in lieu thereof "not less than", effective December 29, 1981.

[44] Sec. 3 of Public Law 94–281 (90 Stat. 458) provided that the fiscal year 1977 appropriation to carry out the purposes of the Peace Corps Act, $10,100,000 shall be available only for payment of the readjustment allowances authorized by secs. 5(c) and 6(1).

[45] Public Law 89–134 (79 Stat. 549) provided health care for children born during the volunteer's service. Sec. 4 of Public Law 91–352 (84 Stat. 465) struck out this provision.

[46] 22 U.S.C. 2506. Sec. 4(a) of Public Law 89–134 (79 Stat. 549) struck out the former subsecs. (a) and (b) of this section which read as follows:

"(a) The President may employ such persons, not to exceed 275 persons permanently employed in the United States at any one time in fiscal year 1962, as the President deems necessary to carry out the provisions and purposes of this Act. Except as otherwise provided in this Act, such persons (hereafter sometimes referred to as "employees") shall be employed in accordance with and shall be subject to the laws applicable to personnel employed by the United States Government.

"(b) Of the persons employed in the United States in activities authorized by this Act, not to exceed thirty may be compensated without regard to the provisions of the Classification Act of 1949, as amended, of whom not to exceed twenty may be compensated at rates higher than those provided for grade fifteen of the general schedule established by the Classification Act of 1949, as amended, but not in excess of the highest rate of grade 18 of such general schedule. Such positions shall be in addition to those authorized by section 4(a) of this Act to be filled by Presidential appointment, and in addition to the number authorized by section 505 of the Classification Act of 1949, as amended.".

Under the terms of sec. 5 of Public Law 89–134, the independent implementing provisions of that act, persons holding career or career-conditional appointments under the repealed authorities immediately prior to the effective date of sec. 4 of Public Law 89–134 (Oct. 10, 1965) may continue employment under such authority for 3 years. Those whose career or career-conditional appointments were at grade 8 or below of the General Schedule could receive appointment for the duration of operations under the Peace Corps Act.

Sec. 4(b) (1) and (2) of Public Law 89–134 reorganized this subsection by changing its designation from "(c)" to "(a)(1)", and striking "—(1)" after the words "the President may".

Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2004 (division D of Public Law 108–199; 118 Stat. 156) provided the following:

"PEACE CORPS

"For necessary expenses * * *: *Provided further,* That during fiscal year 2004 and any subsequent fiscal year, the Director of the Peace Corps may make appointments or assignments, or extend current appointments or assignments, to permit United States citizens to serve for periods in excess of 5 years in the case of individuals whose appointment or assignment, such as

or employees of agencies of the United States Government which are not authorized to utilize the Foreign Service personnel system, who shall receive compensation at any of the rates established under section 402 or 403 of the Foreign Service Act of 1980,[47] together with allowances and benefits thereunder; and persons so employed or assigned shall be entitled, except to the extent that the President may specify otherwise in cases in which the period of the employment or assignment exceeds thirty months, to the same benefits as are provided by section 310 of that Act[48] for persons appointed to the Foreign Service Reserve.

(2)[49] The President may utilize such authority contained in the Foreign Service Act of 1980 relating to members of the Foreign Service and other United States Government officers and employees as the President deems necessary to carry out functions under this Act, except that—

(A) no Foreign Service appointment or assignment under this paragraph shall be for a period of more than seven and one-half years, subject to paragraph (5) and except as provided in paragraph (6)[50] and

(B) no individual whose Foreign Service appointment or assignment under this paragraph has been terminated shall be reappointed or reassigned under this paragraph before the expiration of a period of time equal to the preceding tour of duty of that individual.

Subparagraphs (A) and (B) do not apply with respect to foreign national employees.[51] Such provisions of the Foreign Service Act of 1980 (other than the provision of section 309)[52] as the President deems appropriate shall apply to individuals appointed or assigned under this paragraph, including in all cases, the provisions of section 310 of that Act, except that (i) the President may by regulation make exceptions to the application of section 310 in cases in which

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regional safety security officers and employees within the Office of the Inspector General, involves the safety of Peace Corps volunteers: *Provided further,* That the Director of the Peace Corps may make such appointments or assignments notwithstanding the provisions of section 7 of the Peace Corps Act limiting the length of an appointment or assignment, the circumstances under which such an appointment or assignment may exceed 5 years, and the percentage of appointments or assignments that can be made in excess of 5 years.".

[47] Sec. 2202(b)(1)(A) of Public Law 96–465 (94 Stat. 2157) struck out "who shall receive compensation at any of the rates provided for persons appointed to the Foreign Service Reserve and Staff under the Foreign Service Act of 1946, as amended (22 U.S.C. 801 et seq.)" and inserted in lieu thereof "which are not authorized to utilize the Foreign Service personnel system, who shall receive compensation at any of the rates established under section 402 or 403 of the Foreign Service Act of 1980,".

[48] Sec. 2202(b)(1)(B) of Public Law 96–465 (94 Stat. 2157) struck out "section 528" and inserted in lieu thereof "section 310".

[49] Para. (2), as amended by sec. 4 of Public Law 89–134 (79 Stat. 549), was amended and restated by sec. 2202(b)(1) of Public Law 96–465 (94 Stat. 2157).

[50] Sec. 1103(a)(1)(A) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 272) struck out "unless the Director of the Peace Corps, under special circumstances, personally approved an extension of not more than one year on an individual basis" and inserted in lieu thereof ", subject to paragraph (5) and except as provided in paragraph (6)". Such sec. 1103(a)(1)(A) also increased the period of time of appointments from 5 years to 7.5 years. See sec. 1103(b) of Public Law 99–83 (99 Stat. 272) concerning a report from the Peace Corps Director on the criteria for making appointments for periods of more than 5 years.

[51] Sec. 541(a) of the Foreign Assistance Appropriations Act, 1985 (included in sec. 101 of the Continuing Appropriations Act, 1985; Public Law 98–473; 98 Stat. 1903) added this sentence. This amendment had been included as sec. 703 of H.R. 5119, the International Security and Development Cooperation Act of 1984, as passed by the House on May 10, 1984. Sec. 541(a) enacted sec. 703 of H.R. 5119.

[52] Sec. 1103(a)(1)(B) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 272) added the parenthetical text.

the period of the appointment or assignment exceeds thirty months, (ii) members of the Foreign Service appointed or assigned pursuant to this paragraph shall receive within-class salary increases, in accordance with such regulations as the President may prescribe, and (iii) under such regulations as the President may prescribe, individuals who are to perform duties of a more routine nature than are generally performed by members of the Foreign Service assigned to class 9 in the Foreign Service Schedule may be appointed to an unenumerated class ranking below class 9 in the Foreign Service Schedule and be paid basic compensation at rates lower than those for class 9, except that such rates may be no less than the then applicable minimum wage rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)).

(3)[53] The President may specify what additional allowance authorized by section 5941 of title 5, United States Code, and which of the allowances and differentials authorized by sections 5923 through 5925 of such title 5 may be granted to any person employed, appointed, or assigned under this subsection and may determine the rates thereof not to exceed the rates otherwise granted to employees under the sections of title 5, United States Code, referred to in this paragraph.

(4)[54] An individual who has received an appointment or assignment in the Foreign Service under this subsection may, not later than September 30, 1982, or three years after separation from such appointment or assignment, whichever is later, be appointed to a position in any United States department, agency, or establishment—

(A) in the competitive service under title 5, United States Code, without competitive examination and in accordance with such regulations and conditions consistent with this subsection as may be prescribed by the Director of the Office of Personnel Management, or

(B) in an established merit system in the excepted service, if such individual[55] (i) served satisfactorily under the authority of this subsection, as certified by the President, for not less than thirty-six months on a continuous basis without a break in service of more than three days,[56] and (ii) is qualified for the position in question.

(5)[57] Except as provided in paragraph (6), the Director of the Peace Corps may make appointments or assignments of United States citizens under paragraph (2) for periods of more than five

[53] As amended and restated by sec. 5 of Public Law 91–352 (84 Stat. 465). Previously amended by sec. 4(b)(4) of Public Law 89–134 (79 Stat. 550).

[54] Sec. 302 of the International Development Cooperation Act of 1979 (Public Law 96–53; 93 Stat. 371) added para. (4). The text of para. (4) up to the words "or three years" were inserted by sec. 2202(b)(2) of Public Law 96–465 (94 Stat. 2158). Former text of para. (4) had contained temporary language pending the enactment of Foreign Service personnel reform legislation which was included in Public Law 96–465.

[55] Sec. 2202(b)(2)(B) of Public Law 96–465 (94 Stat. 2158) struck out "person" and inserted in lieu thereof "individual".

[56] Sec. 2202(b)(2)(C) of Public Law 96–465 (94 Stat. 2158) struck out "substantially continuous basis" and inserted in lieu thereof "continuous basis without a break in service of more than three days,".

[57] Sec. 1103(a)(2) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 272) added paras. (5) and (6).

years only in the case of individuals whose performance as employees of the Peace Corps has been exceptional and only in order to achieve one or more of the following purposes:

(A) To permit individuals who have served at least two and one-half years of such an appointment or assignment abroad to serve in the United States thereafter.

(B) To permit individuals who have served at least two and one-half years of such an appointment or assignment in the United States to serve abroad thereafter.

(C) To permit individuals who have served at least two and one-half years of such an appointment or assignment in a recruitment, selection, or training activity to be reassigned to an activity other than the one in which they have most recently so served.

(D) To promote the continuity of functions in administering the Peace Corps.

At no time may the number of appointments or assignments of United States citizens in effect under paragraph (2) for periods in excess of five years exceed fifteen percent of the total of all appointments and assignments of United States citizens then in effect under paragraph (2).

(6)[57] Notwithstanding the limitation set forth in paragraph (2)(A) on the length of an appointment or assignment under paragraph (2) and notwithstanding the limitations set forth in paragraph (5) on the circumstances under such an appointment or assignment may exceed five years, the Director of the Peace Corps, under special circumstances, may personally approve an extension of an appointment or assignment under paragraph (2) for not more than one year on an individual basis.

(b)[58] * * * [Repealed—1981]

(c)[59] In each country or area in which volunteers serve abroad, the President may appoint an employee or a volunteer as a Peace Corps representative to have direction of other employees of the Peace Corps abroad and to oversee the activities carried on under this Act in such country or area. Unless a representative is a volunteer, the compensation, allowances and benefits, and other terms and conditions of service of each such representative, shall be the same as those of a person appointed or assigned pursuant to paragraph (1) or (2) of subsection (a) of this section, except that any such representative may, notwithstanding any provision of law, be removed by the President in his discretion.

VOLUNTEER TRAINING

Sec. 8.[60] (a) The President shall make provision for such training as he deems appropriate for each applicant for enrollment as a volunteer and each enrolled volunteer. All of the provisions of this Act

[58] Subsec. (b), as amended by Public Law 89–134 (79 Stat. 549), was repealed by sec. 2205(9) of the Foreign Service Act of 1980 (Public Law 96–465; 94 Stat. 2160). Subsec. (b) had authorized the President to prescribe by regulation standards for maintaining adequate performance levels for persons performing functions under this Act outside of the United States.

[59] Sec. 4(d) of Public Law 89–134 (79 Stat. 549) amended subsec. (c) by substituting "(c)" for "(e)" and "(a)" for "(c)".

[60] 22 U.S.C. 2507. Sec. 904 of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3356) repealed subsec. (c) of sec. 8. It previously read as follows:

Continued

applicable respectively to volunteers and volunteer leaders shall be applicable to applicants for enrollment as such during any period of training occurring prior to enrollment, and the respective terms "volunteers" and "volunteer leaders" shall include such applicants during any such period of training.

(b) The President may also make provision, on the basis of advances of funds or reimbursement to the United States, for training for citizens of the United States, other than those referred to in subsection (a) of this section, who have been selected for service abroad in programs not carried out under authority of this Act which are similar to those authorized by this Act. The provisions of section 9 of this Act shall apply, on a similar advance of funds or a reimbursement basis, with respect to persons while within the United States for training under authority of this subsection. Advances or reimbursements received under this subsection may be credited to the current applicable appropriation, fund, or account and shall be available for the purposes for which such appropriation, fund, or account is authorized to be used.

PARTICIPATION OF FOREIGN NATIONALS

Sec. 9.[61] In order to provide for assistance by foreign nationals in the training of volunteers, and to permit effective implementation of Peace Corps projects with due regard for the desirability of cost-sharing arrangements, where appropriate, the President may make provision for transportation, housing, subsistence, or per diem in lieu thereof, and health care or health and accident insurance for foreign nationals engaged in activities authorized by this Act while they are away from their homes, without regard to the provisions of any other law: *Provided, however,* That per diem in lieu of subsistence furnished to such persons shall not be at rates higher than those prescribed by the Secretary of State pursuant to section 12 of Public Law 84–855[62] (70 Stat. 890). Such persons, and persons coming to the United States under contract pursuant to section 10(a)(5), may be admitted to the United States, if otherwise qualified, as nonimmigrants under section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) for such time and under such conditions as may be prescribed by regulations promulgated by the Secretary of State and the Attorney General. A person admitted under this section who fails to maintain the status under which he was admitted or who fails to depart from the United States at the expiration of the time for which he was admitted, or who engages in activities of a political nature detrimental to the interests of the United States, or in activities not consistent with the security of the United States, shall, upon the warrant of the Attorney General, be taken into custody and promptly removed pursuant to chapter 4 of title II of the Immigration and Nationality Act[62] proceedings under this section shall be

"(c) Training hereinabove provided for, shall include instruction in the philosophy, strategy, tactics, and menace of communism.".

[61] 22 U.S.C. 2508.

[62] Sec. 308(e)(18) of Public Law 104–208 (110 Stat. 3009) struck out "deported pursuant to sections 241, 242, and 243 of the Immigration and Nationality Act. Deportation" and inserted in lieu thereof "removed pursuant to chapter 4 of title II of the Immigration and Nationality Act".

summary and the findings of the Attorney General as to matters of fact shall be conclusive.

GENERAL POWERS AND AUTHORITIES

Sec. 10.[63] (a) In the furtherance of the purposes of this Act, the President may—

(1) enter into, perform, and modify contracts and agreements and otherwise cooperate with any agency of the United States Government or of any State or any subdivision thereof, other governments and departments and agencies thereof, and educational institutions, voluntary agencies, farm organizations, labor unions, and other organizations, individuals and firms;

(2) assign volunteers in special cases to temporary duty with international organizations and agencies when the Secretary of State determines that such assignment would serve the purposes of this Act;[64]

(3)[65] assign volunteers to duty or otherwise make them available to any entity referred to in paragraph (1), in order to assist such organizations and agencies in providing development or other relief assistance to displaced persons and refugees in any country, if the government of the country agrees to such assignment;

(4)[65] accept in the name of the Peace Corps and employ or transfer in furtherance of the purposes of this Act (A) voluntary services notwithstanding the provisions of section 1342 of title 31, United States Code,[66] and (B) any money or property (real, personal or mixed, tangible or intangible) received by gift, devise, bequest, or otherwise;[67] and

(5)[65] contract with individuals for personal services abroad, and with aliens (abroad or within the United States) for personal services within the United States: *Provided,* That no such person shall be deemed an officer or employee or otherwise in the service or employment of the United States Government for any purpose.

(b) Notwithstanding any other provision of law, whenever the President determines that it will further the purposes of this Act, the President, under such regulations as he may prescribe, may settle and pay, in an amount not exceeding $20,000,[68] any claim against the United States, for loss of or damage to real or personal property (including loss of occupancy or use thereof) belonging to,

[63] 22 U.S.C. 2509.

[64] Sec. 5(a)(1) of Public Law 95–331 (92 Stat. 414) struck out a proviso clause that had limited the number of volunteers or volunteer leaders assigned to international organizations to 125.

[65] Sec. 5(c) of Public Law 95–331 (92 Stat. 415) added para. (3) and redesignated former paras. (3) and (4) as paras. (4) and (5), respectively.

[66] Sec. 2(b)(4) of Public Law 106–30 (113 Stat. 56) struck out "31 U.S.C. 665(b)" and inserted in lieu thereof "section 1342 of title 31, United States Code".

[67] Sec. 6 of Public Law 89–572 (80 Stat. 765) added the words "or transfer" and struck out the following language which had followed the word "otherwise": ", and transfer such money or property to the government or other entities of the country or area with which the Volunteers are serving, when such transfer would further the general purposes of the Act". Except for the words "money or", the above language was added by sec. 5 of Public Law 88–200 (77 Stat. 360). Sec. 6 of Public Law 89–134 (79 Stat. 551) added the words "money or".

[68] This figure was increased from $10,000 to $20,000 by sec. 5(a)(2) of Public Law 95–331 (92 Stat. 414). Sec. 5(b) of such Act stated that this amendment would apply to claims made after the date of enactment of Public Law 95–331 (Aug. 2, 1978).

or for personal injury or death of, any person not a citizen or resident of the United States, where such claim arises abroad out of the act or omission of any Peace Corps employee or out of the act or omission of any volunteer, but only if such claim is presented in writing within one year after it accrues. Any amount paid in settlement of any claim under this subsection shall be accepted by the claimant in full satisfaction thereof and shall bar any further action or proceeding thereon.

(c) Subject to any future action of the Congress, a contract or agreement which entails commitments for the expenditure of funds available for the purposes of this Act, including commitments for the purpose of paying or providing for allowances and other benefits of volunteers authorized by sections 5 and 6 of this Act, may extend at any time for not more than five years.[69]

(d) Whenever the President determines it to be in furtherance of the purposes of this Act, functions authorized by this Act may be performed without regard to such provisions of law (other than section 3709 of the Revised Statutes of the United States, as amended, section 302 of the Federal Property and Administrative Services Act of 1949, and the Renegotiation Act of 1951, as amended)[70] regulating the making, performance, amendment, or modification of contracts, and the expenditure of Government funds as the President may specify.

(e) The President may allocate or transfer to any agency of the United States Government any funds available for carrying out the purposes of this Act including any advance received by the United States from any country or international organization under authority of this Act, but not to exceed 20 per centum in the aggregate of such funds may be allocated or transferred to agencies other than the Peace Corps. Such funds shall be available for obligation and expenditure for the purposes of this Act in accordance with authority granted in this Act or under authority governing the activities of the agencies of the United States Government to which such funds are allocated or transferred.

(f) Any officer of the United States Government carrying out functions under this Act may utilize the services and facilities of, or procure commodities from, any agency of the United States Government as the President shall direct, or with the consent of the head of such agency, and funds allocated pursuant to this subsection to any such agency may be established in separate appropriation accounts on the books of the Treasury.

(g) In the case of any commodity, service, or facility procured from any agency of the United States Government under this Act, reimbursement or payment shall be made to such agency from funds available under this Act. Such reimbursement or payment shall be at replacement cost, or, if required by law, at actual cost, or at any other price authorized by law and agreed to by the owning or disposing agency. The amount of any such reimbursement or payment shall be credited to current applicable appropriations,

[69] Sec. 602(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 491), struck out "thirty-six months" and inserted in lieu thereof "five years".

[70] 50 U.S.C. app. 1211 note. Sec. 2 of Public Law 93–49 (87 Stat. 99) added within the parentheses, the reference to sec. 3709 and sec. 302.

funds, or accounts from which there may be procured replacements of similar commodities, services, or facilities, except that where such appropriations, funds, or accounts are not reimbursable except by reason of this subsection, and when the owning or disposing agency determines that such replacement is not necessary, any funds received in payment therefor shall be covered into the Treasury as miscellaneous receipts.

(h)[71] The President may provide hospitalization and medical treatment to Foreign Service local employees who are within the United States for training related to their employment under this Act, for illnesses, injuries, or conditions other than those arising out of and in the course of employment, which, in the judgment of the President, began during such employee's travel related to such training or so near to the beginning of such travel that the onset of the illness, injury, or condition could not have been known, and for which immediate medical treatment or hospitalization is reasonably required.

(i)[72] The Director of the Peace Corps shall have the same authority as is available to the Secretary of State under section 26(a) of the State Department Basic Authorities Act of 1956. For purposes of this subsection, the reference in such section 26(a) to a principal officer of the Foreign Service shall be deemed to be a reference to a Peace Corps representative and the reference in such section to a member of the Foreign Service shall be deemed to be a reference to a person employed, appointed, or assigned under this Act.

(j)[72] The provisions of section 30 of the State Department Basic Authorities Act of 1956 shall apply to volunteers and persons employed, appointed, or assigned under this Act, and to individuals employed under personal services contracts to furnish medical services abroad pursuant to subsection (a)(5) of this section.[73] For purposes of this subsection, references to the Secretary in subsection (b) of such section shall be deemed to be references to the Director of the Peace Corps, references to the Secretary in subsection (f) of such section shall be deemed to be references to the President, and the reference in subsection (g) of such section to a principal representative of the United States shall be deemed to be a reference to a Peace Corps representative.

REPORTS

Sec. 11.[74] The President shall transmit to the Congress, at least once in each fiscal year, a report on operations under this Act. Each report shall contain information describing efforts undertaken

[71] Sec. 5(a)(3) of Public Law 95–331 (92 Stat. 414) added subsec. (h).

[72] Sec. 604(a) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1543) added subsecs. (i) and (j). Sec. 604(c) of Public Law 97–113 further stated that "To the extent that the authorities provided by the amendments made by subsection (a) are authorities which are not applicable with respect to the Peace Corps immediately before the enactment of this Act and which require the expenditure of funds, those authorities may not be exercised using any funds appropriated after February 15, 1981, and before the date of enactment of this Act.". (enacted Dec. 29, 1981). See text of sec. 26(a) and sec. 30 of the State Department Basic Authorities Act of 1956 mentioned in subsecs. (i) and (j).

[73] Sec. 602(b) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 491), inserted "and to individuals employed under personal services contracts to furnish medical services abroad pursuant to subsection (a)(5) of this section".

[74] 22 U.S.C. 2510.

to improve coordination of activities of the Peace Corps with activities of international voluntary service organizations, such as the United Nations volunteer program, and of host country voluntary service organizations, including—

(1) a description of the purpose and scope of any development project which the Peace Corps undertook during the preceding fiscal year as a joint venture with any such international or host country voluntary service organizations; and

(2) recommendations for improving coordination of development projects between the Peace Corps and any such international or host country voluntary service organizations.[75]

The President shall also include in the report a description of any plans to carry out the policy set forth in section 2(b) of this Act.[76]

PEACE CORPS NATIONAL ADVISORY COUNCIL

Sec. 12.[77] (a) ESTABLISHMENT.—A Peace Corps National Advisory Council (hereinafter in this section referred to as the "Council") shall be established in accordance with the provisions of this section.

(b) FUNCTIONS.—(1) The Council shall advise and consult with the President and the Director of the Peace Corps with regard to policies and programs designed to further the purposes of this Act and shall, as the Council considers appropriate, periodically report to the Congress with regard to the Peace Corps.

(2) Members of the Council shall (subject to subsection (d)(1)) conduct on-site inspections, and make examinations, of the activities of the Peace Corps in the United States and in other countries in order to—

(A) evaluate the accomplishments of the Peace Corps;

(B) assess the potential capabilities and the future role of the Peace Corps;

(C) make recommendations to the President, the Director of the Peace Corps, and, as the Council considers appropriate, the Congress, for the purpose of guiding the future direction of the Peace Corps and of helping to ensure that the purposes and programs of the Peace Corps are carried out in ways that are economical, efficient, responsive to changing needs in developing countries and to changing relationships among people, and in accordance with law; and

(D) make such other evaluations, assessments, and recommendations as the Council considers appropriate.

(3) The Council may provide for public participation in its activities.

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[75] This sentence was added by sec. 6 of Public Law 95–331 (92 Stat. 415).

[76] Sec. 1102(b) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 272) added this section.

[77] 22 U.S.C. 2511. Sec. 1104 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 273) added sec. 12. Sec. 12 was previously repealed by Public Law 92–352 (86 Stat. 495). Subsec. (b) of sec. 1104 terminated the functions of any advisory body carrying out functions similar to those assigned to the Peace Corps National Advisory Council. In effect, it nullified Executive Order 12468 (49 F.R. 11139) which had established a Presidential Advisory Council on the Peace Corps.

(c) MEMBERSHIP.—(1) Persons appointed as members of the Council shall be broadly representative of the general public, including educational institutions, private volunteer agencies, private industry, farm organizations, labor unions, different regions of the United States, different educational, economic, racial, and national backgrounds and age groupings, and both sexes.

(2)(A) The Council shall consist of fifteen voting members who shall be appointed by the President, by and with the advice and consent of the Senate. At least seven of such members shall be former Peace Corps volunteers, and not more than eight of such members shall be members of the same political party.

(B) The first appointments of members of the Council under this paragraph shall be made not more than sixty days after the date of the enactment of this section and, solely for purposes of determining the expiration of their terms, shall be deemed to take effect on the sixtieth day after such date of enactment.

(C) No member appointed under this paragraph may be an officer or employee of the United States Government.

(D) Of the members initially appointed under this paragraph, eight shall be appointed to 1-year terms and seven shall be appointed to 2-year terms. Thereafter, all appointed members shall be appointed to 2-year terms.

(E) A member of the Council appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term.

(F) No member of the Council may serve for more than two consecutive 2-year terms.

(G) Members of the Council shall serve at the pleasure of the President.

(H) An appointed member of the Council may be removed by a vote of nine members for malfeasance in office, for persistent neglect of or inability to discharge duties, or for offenses involving moral turpitude, and for no other cause.

(I) Within thirty days after any vacancy occurs in the office of an appointed member of the Council, the President shall nominate an individual to fill the vacancy.

(3) In addition to the voting members of the Council, the Secretary of State and the Administrator of the Agency for International Development, or their designees, and the Director and Deputy Director of the Peace Corps, shall be non-voting members, ex officio, of the Council.

(d) COMPENSATION.—(1) Except as provided in paragraph (2), a member of the Council who is not an officer or employee of the United States Government—

(A) shall be paid compensation out of funds made available for the purposes of this Act at the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the actual performance of duties as a Council member, and

(B) while away from his or her home or regular place of business on necessary travel, as determined by the Director of the Peace Corps, in the actual performance of duties as a Council

member, shall be paid per diem, travel, and transportation expenses in the same manner as is provided under subchapter I of chapter 57 of title 5, United States Code.

(2) A member of the Council may not be paid compensation under paragraph (1)(A) for more than twenty days in any calendar year.

(e) QUORUM.—A majority of the voting members of the Council shall constitute a quorum for the purposes of transacting any business.

(f) FINANCIAL INTERESTS OF MEMBERS.—A member of the Council shall disclose to the Council the existence of any direct or indirect financial interest of that member in any particular matter before the Council and may not vote or otherwise participate as a Council member with respect to that particular matter.

(g) CHAIR AND VICE CHAIR.—At its first meeting and at its first regular meeting in each calendar year thereafter, the Council shall elect a Chair and Vice Chair from among its appointed members who are citizens of the United States. The Chair and Vice Chair may not both be members of the same political party.

(h) MEETINGS, BYLAWS, AND REGULATIONS.—(1) The Council shall hold a regular meeting during each calendar quarter and shall meet at the call of the President, the Director of the Peace Corps, the Council's Chair, or one-fourth of its members.

(2) The Council shall prescribe such bylaws and regulations as it considers necessary to carry out its functions. Such bylaws and regulations shall include procedures for fixing the time and place of meetings, giving or waiving of notice of meetings, and keeping of minutes of meetings.

(i) REPORTS TO THE PRESIDENT AND THE DIRECTOR.—Not later than January 1, 1988, and not later than January 1 of each second year thereafter, the Council shall submit to the President and the Director of the Peace Corps a report on its views on the programs and activities of the Peace Corps. Each report shall contain a summary of the advice and recommendations provided by the Council to the President and the Director during the period covered by the report and such recommendations (including recommendations for administrative or legislative action) as the Council considers appropriate to make to the Congress. Within ninety days after receiving each such report, the President shall submit to the Congress a copy of the report, together with any comments concerning the report that the President or the Director considers appropriate.

(j) ADMINISTRATIVE ASSISTANCE.—The Director of the Peace Corps shall make available to the Council such personnel, administrative support services, and technical assistance as are necessary to carry out its functions effectively.

EXPERTS AND CONSULTANTS

Sec. 13.[78] (a) Experts and consultants or organizations thereof may, as authorized by Section 3109 of title 5, United States Code, be employed by the President[79] for the performance of functions

[78] 22 U.S.C. 2512.

[79] Sec. 6(a) of Public Law 88–200 (77 Stat. 360) struck out"Peace Corps" and inserted in lieu thereof "President".

under this Act, and individuals so employed may be compensated at rates not in excess of the per diem equivalent of the highest rate payable under section 5332 of title 5, United States Code,[80] and while away from their homes or regular places of business, they may be paid actual travel expenses and per diem in lieu of subsistence and other expense at the applicable rate prescribed in the Standardized Government Travel Regulations, as amended from time to time, while so employed: *Provided,* That contracts for such employment may be renewed annually.

(b) Service of an individual as a member of the Council authorized to be established by section 12 of this Act or as an expert or consultant under subsection (a) of this section shall not[81] be considered as employment or holding of office or position bringing such individual within the provisions of sections 3323(b) and 8344 of title 5, United States Code, section 824 of the Foreign Service Act of 1980[82] or any other law limiting the reemployment of retired officers or employees or governing the simultaneous receipt of compensation and retired pay or annuities.[83]

DETAIL OF PERSONNEL TO FOREIGN GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS

Sec. 14.[84] (a) In furtherance of the purposes of this Act, the head of any agency of the United States Government is authorized to detail, assign, or otherwise make available any officer or employee of his agency (1) to serve with, or as a member of, the international staff of any international organization, or (2) to any office or position to which no compensation is attached with any foreign government or agency thereof: *Provided,* That such acceptance of such office or position shall in no case involve the taking of an oath of allegiance to another government.

(b) Any such officer or employee, while so detailed or assigned, shall be considered, for the purpose of preserving his allowances, privileges, rights, seniority, and other benefits as such, an officer or employee of the United States Government and of the agency of the United States Government from which detailed or assigned, and he shall continue to receive compensation, allowances, and benefits from funds authorized by this Act. He may also receive,

[80] Public Law 91–352 (84 Stat. 465) struck out "$75 per diem" and inserted in lieu thereof "per diem equivalent of the highest rate payable under section 5332 of title 5, United States Code".

[81] Sec. 6(b) of Public Law 88–200 (77 Stat. 360) struck out the following at this point: "be considered as service or employment bringing such individual within the provisions of section 281, 283, or 284 of title 18 of the United States Code, or of section 190 of the Revised Statutes (5 U.S.C. 99), or of any other Federal law imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of service, or the payment or receipt of compensation in connection with any claim, proceeding, or matter involving the United States Government, except insofar as such provisions of law may prohibit any such individual from receiving compensation in respect of any particular matter, in which such individual was directly involved in the performance of such service; nor shall such service".

These words were struck out to reflect the general repeal of all special exemptions from the conflict-of-interest statutes for government employees which was effected by sec. 2 of Public Law 87–849.

[82] Sec. 2202(c) of Public Law 96–465 (94 Stat. 2158) struck out "section 872 of the Foreign Service Act of 1946" and inserted in lieu thereof "section 824 of the Foreign Service Act of 1980".

[83] Sec. 1048(i)(9) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1229) struck out ", subject to section 5532 of title 5, United States Code" at the end of this sentence.

[84] 22 U.S.C. 2513.

under such regulations as the President may prescribe, representation allowances similar to those allowed under section 905 of the Foreign Service Act of 1980.[85] The authorization of such allowances and other benefits, and the payment thereof out of any appropriations available therefor, shall be considered as meeting all of the requirements of section 5536 of title 5, United States Code.

(c) Details or assignments may be made under this section—

(1) without reimbursement to the United States Government, by the international organization or foreign government;

(2) upon agreement by the international organization or foreign government to reimburse the United States Government for compensation, travel expenses, and allowances, or any part thereof, payable to such officer or employee during the period of assignment or detail in accordance with subsection (b) of this section; and such reimbursement shall be credited to the appropriation, fund, or account utilized for paying such compensation, travel expenses, or allowances, or to the appropriation, fund, or account currently available for such purpose; or

(3) upon an advance of funds, property or services to the United States Government accepted with the approval of the President for specified uses in furtherance of the purposes of this Act; and funds so advanced may be established as a separate fund in the Treasury of the United States Government, to be available for the specified uses, and to be used for reimbursement of appropriations or direct expenditure subject to the provisions of this Act, any unexpended balance of such account to be returned to the foreign government or international organization.

UTILIZATION OF FUNDS

Sec. 15.[86] (a) Funds made available for the purposes of this Act may be used for compensation, allowances and travel of employees, including members of the Foreign Service[87] whose services are utilized primarily for the purposes of this Act, for printing and binding without regard to the provisions of any other law, and for expenditures outside the United States for the procurement of supplies and services and for other administrative and operating purposes (other than compensation of employees) without regard to such laws and regulations governing the obligation and expenditure of Government funds as may be necessary to accomplish the purposes of this Act.

(b)[88] Funds made available for the purposes of this Act may be used to pay expenses in connection with travel abroad of employees and to the extent otherwise authorized by this Act, of volunteers, including travel expenses of dependents (including expenses during necessary stopovers while engaged in such travel), and transportation of personal effects, household goods, and automobiles when

[85] Sec. 2202(d) of Public Law 96–465 (94 Stat. 2158) struck out "section 901 of the Foreign Service Act of 1946" and inserted in lieu thereof "section 905 of the Foreign Service Act of 1980".

[86] 22 U.S.C. 2514.

[87] Sec. 2202(e) of the Foreign Service Act of 1980 (Public Law 96–465; 94 Stat. 2158) struck out "Foreign Service personnel" and inserted in lieu thereof "members of the Foreign Service".

[88] Sec. 201(16) of the Fiscal Year Transition Act (Public Law 94–274) provided that the period July 1, 1976 through Sept. 30, 1976 shall be treated as a fiscal year for the purposes of sec. 15(b).

any part of such travel or transportation begins in one fiscal year pursuant to travel orders issued in that fiscal year, notwithstanding the fact that such travel or transportation may not be completed during the same fiscal year, and cost of transporting to and from a place of storage, and the cost of storing automobiles of employees when it is in the public interest or more economical to authorize storage.

(c) Funds available under this Act may be used to pay costs of training employees employed or assigned pursuant to section 7(a)(2)[89] of this Act (through interchange or otherwise) at any State or local unit of government, public or private nonprofit institution, trade, labor, agricultural, or scientific association or organization, or commercial firms; and the provisions of subchapter VI of chapter 33 of title 5, United States Code[90] may be used to carry out the foregoing authority notwithstanding that interchange of personnel may not be involved or that the training may not take place at the institutions specified in that Act. Any[91] payments or contributions in connection therewith may, as deemed appropriate by the head of the agency of the United States Government authorizing such training, be made by private or public sources and be accepted by any trainee, or may be accepted by and credited to the current applicable appropriation of such agency: *Provided, however,* That any such payments to an employee in the nature of compensation shall be in lieu, or in reduction, of compensation received from the United States Government.

(d) Funds available for the purposes of this Act shall be available for—

(1) rent of buildings and space in buildings in the United States, and for repair, alteration, and improvement of such leased properties;

(2) expenses of attendance at meetings concerned with the purposes of this Act, including (notwithstanding the provisions of section 1346 of title 31, United States Code[92] expenses in connection with meetings of persons whose employment is authorized by section 13(a) of this Act;

(3) rental and hire of aircraft;

(4) purchase and hire of passenger motor vehicles: *Provided,* That, except as may otherwise be provided in an appropriation or other Act, passenger motor vehicles for administrative purposes abroad may be purchased for replacement only, and such vehicles may be exchanged or sold and replaced by an equal number of such vehicles, and the cost, including exchange allowance, of each such replacement shall not exceed the applicable cost limitation described in section 636(a)(5) of the Foreign

[89] Sec. 3(a) of Public Law 89–572 (80 Stat. 765) struck out "section 7(c)(2)" and inserted in lieu thereof "section 7(a)(2)".

[90] Sec. 2(b)(5) of Public Law 106–30 (113 Stat. 56) struck out "Public Law 84–918 (7 U.S.C. 1881 et seq.)" and inserted in lieu thereof "subchapter VI of chapter 33 of title 5, United States Code".

[91] Sec. 7 of Public Law 89–134 (79 Stat. 551) struck out "Such training shall not be considered employment or holding of office under section 2 of the Act of July 31, 1894, as amended (5 U.S.C. 62), and any" and inserted in lieu thereof "Any".

[92] Sec. 2(b)(6) of Public Law 106–30 (113 Stat. 56) struck out "section 9 of Public Law 60–328 (31 U.S.C. 673))" and inserted in lieu thereof "section 1346 of title 31, United States Code".

Assistance Act of 1961[93] in the case of an automobile for any Peace Corps country representative appointed under section 7(c):[94] *Provided further,* That the provisions of section 1343 of Title 31, United States Code, shall not apply to the purchase of vehicles for the transportation, maintenance, or direct support of volunteers overseas:[93] *Provided further,* That passenger motor vehicles may be purchased for use in the United States only as may be specifically provided in an appropriation or other Act;

(5) entertainment (not to exceed $5,000 in any fiscal year) except as may otherwise be provided in any appropriation or other Act;[95]

(6) exchange of funds[96] and loss by exchange;

(7) expenditures (not to exceed $20,000[97] in any fiscal year except as may be otherwise provided in appropriation or other Act)[95] not otherwise authorized by law to meet unforeseen emergencies or contingencies arising in the Peace Corps: *Provided,* That a certificate of the amount only of each such expenditure and that such expenditure was necessary to meet an unforeseen emergency or contingency, made by the Director of the Peace Corps or his designee, shall be deemed a sufficient voucher for the amount therein specified;

(8) insurance of official motor vehicles acquired for use abroad;

(9) rent or lease abroad for not to exceed five years of offices, health facilities, buildings, grounds, and living quarters, and payments therefor in advance; maintenance, furnishings, necessary repairs, improvements, and alterations to properties owned or rented by the United States Government or made available for its use abroad; and costs of fuel, water, and utilities for such properties;

(10) expenses of preparing and transporting to their former homes, or with respect to foreign participants engaged in activities under this Act, to their former homes or places of burial, and of care and disposition of, the remains of persons or members of the families of persons who may die while such persons are away from their homes participating in activities under this Act;

(11) use in accordance with authorities of the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.)[98] not otherwise provided for;

(12) ice and drinking water for use abroad; and

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[93] The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (sec. 101(e) of Public Law 100–202; 101 Stat. 1329) deleted "$2,500", and added the words beginning with "the applicable cost" and ending in "Act of 1961" and the proviso regarding section 1343 of Title 31 U.S.C.

[94] Sec. 3(b) of Public Law 89–572 (80 Stat. 765) struck out "7(e)" and inserted in lieu thereof "7(c)".

[95] Sec. 211(a) of the Fiscal Year Transition Act (Public Law 94–274) provided that for the period July 1, 1976 through Sept. 30, 1976 the limitation on expenditures in secs. 15(d)(5) and 15(d)(7) shall be $1,500.

[96] Sec. 2(b)(7) of Public Law 106–30 (113 Stat. 56) struck out "without regard to section 3561 of the Revised Statutes (31 U.S.C. 543)" after "exchange of funds".

[97] This figure was increased from $5,000 to $20,000 by sec. 601(c) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3155).

[98] Sec. 2(b)(8) of Public Law 106–30 (113 Stat. 56) struck out "Foreign Service Act of 1946, as amended (22 U.S.C. 801 et seq.)" and inserted in lieu thereof "Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.)".

(13)[99] the transportation of Peace Corps employees, Peace Corps volunteers, dependents of such employees and volunteers, and accompanying baggage, by a foreign air carrier when the transportation is between two places outside the United States without regard to section 40118 of title 49, United States Code.

SEC. 16.[100] FOREIGN CURRENCY FLUCTUATIONS ACCOUNT.

(a) ESTABLISHMENT.—(1) There is established in the Treasury of the United States an account to be known as the "Foreign Currency Fluctuations, Peace Corps, Account". The account shall be used for the purpose of providing funds to pay expenses for operations of the Peace Corps outside the United States which, as a result of fluctuations in currency exchange rates, exceed the amount appropriated for such expenses.

(2) Funds in the account may be transferred, upon the certification of the Director of the Peace Corps (or the Director's designee) that the transfer is necessary for the purpose specified in paragraph (1), to the account containing funds appropriated for the expenses of the Peace Corps.

(b) USE OF FUNDS IN THE ACCOUNT.—Funds transferred under subsection (a) shall be merged with, and be available for the same time period, as the appropriation to which they are applied. Notwithstanding any provision of law limiting the amount of funds the Peace Corps may obligate in any fiscal year, such amount shall be increased to the extent necessary to reflect fluctuations in exchange rates from those used in preparing the budget submission.

(c) EXCHANGE RATES APPLICABLE TO OBLIGATIONS.—An obligation of the Peace Corps payable in the currency of a foreign country may be recorded as an obligation based upon exchange rates used in preparing a budget submission. A change reflecting fluctuations in exchange rates may be recorded as a disbursement is made.

(d) TRANSFERS BACK TO ACCOUNT.—Funds transferred from the Foreign Currency Fluctuations, Peace Corps, Account may be transferred back to that account—

(1) if the funds are not needed to pay obligations incurred because of fluctuations in currency exchange rates of foreign countries in the appropriation to which the funds were originally transferred; or

(2) because of subsequent favorable fluctuations in the rates or because other funds are, or become, available to pay such obligations.

(e) LIMITATION ON TRANSFERS BACK.—A transfer of funds back to the account under subsection (d) may not be made after the end of the fiscal year or other period for which the appropriation, to which the funds were originally transferred, is available for obligation.

(f) TRANSFERS TO THE ACCOUNT FROM REGULAR APPROPRIATIONS.—(1) At the end of the fiscal year or other period for which

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[99] Sec. 2(a) of Public Law 106–30 (113 Stat. 55) struck out "and" at the end of para. (11); replaced a period at the end of para. (12) with "; and"; and added a new para. (13).

[100] 22 U.S.C. 2515. Sec. 2(a) of Public Law 102–565 (106 Stat. 4265) added sec. 16. Formerly, a sec. 16 relating to appointments of persons serving under prior law was repealed by sec. 5(a) of Public Law 89–572 (80 Stat. 765).

Sec. 2(b) of Public Law 102–565 (106 Stat. 4265) provided that:

"(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies with respect to each fiscal year after fiscal year 1992.".

appropriations for the expenses of the Peace Corps are made available, unobligated balances of such appropriation may be transferred into the Foreign Currency Fluctuations, Peace Corps, Account, to be merged with, and to be available for the same period and purposes as, that account.

(2) The authority of this subsection shall be exercised only to the extent that specific amounts are provided in advance in an appropriation Act.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Foreign Currency Fluctuations, Peace Corps, Account for each fiscal year such sums as may be necessary to maintain a balance of $5,000,000 in such account at the beginning of such fiscal year.

(h) REPORTS.—Each year the Director of the Peace Corps shall submit to the Committee on Foreign Affairs [101] and the Committee on Appropriations of the House of Representatives, and to the Committee on Foreign Relations and the Committee on Appropriations of the Senate, a report on funds transferred under this section.

USE OF FOREIGN CURRENCIES

Sec. 17.[102] Whenever possible, expenditures incurred in carrying out functions under this Act shall be paid for in such currency of the country or area where the expense is incurred as may be available to the United States.

ACTIVITIES PROMOTING AMERICANS' UNDERSTANDING OF OTHER PEOPLES

Sec. 18.[103] In order to further the goal of the Peace Corps, as set forth in section 2 of this Act, relating to the promotion of a better understanding of other peoples on the part of the American people, the Director, utilizing the authorities under section 10(a)(1)

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[101] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

[102] 22 U.S.C. 2516.

[103] 22 U.S.C. 2517. Added by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (Public Law 100–202; 101 Stat. 1329).

Sec. 408(c) of the Microenterprise for Self-Reliance and International Anti-Corruption Act of 2000 (Public Law 106–309; 114 Stat. 1100) provided the following:

"(c) DESIGNATION OF PAUL D. COVERDELL FELLOWS PROGRAM.—

"(1) IN GENERAL.—Effective on the date of the enactment of this Act, the program under section 18 of the Peace Corps Act (22 U.S.C. 2517) referred to before such date as the 'Peace Corps Fellows/USA Program' is redesignated as the 'Paul D. Coverdell Fellows Program'.

"(2) REFERENCES.—Any reference before the date of the enactment of this Act in any law, regulation, order, document, record, or other paper of the United States to the Peace Corps Fellows/USA Program shall, on and after such date, be considered to refer to the Paul D. Coverdell Fellows Program.".

Sec. 603 of the Assistance for International Malaria Control Act (Public Law 106–570; 114 Stat. 3052) provided the following:

"SEC. 603. DESIGNATION OF PAUL D. COVERDELL WORLD WISE SCHOOLS PROGRAM.

"(a) IN GENERAL.—Effective on the date of enactment of this Act, the program under section 18 of the Peace Corps Act (22 U.S.C. 2517) referred to before such date as the 'World Wise Schools Program' is redesignated as the 'Paul D. Coverdell World Wise Schools Program'.

"(b) REFERENCES.—Any reference before the date of enactment of this Act in any law, regulation, order, document, record, or other paper of the United States to the Peace Corps World Wise Schools Program shall, on and after such date, be considered to refer to the Paul D. Coverdell World Wise Schools Program.".

The former sec. 18 was repealed by sec. 605(b) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1543). It had stated that the Mutual Defense Assistance Control Act of 1951 would apply with respect to functions carried out under

and other provisions of law, shall, as appropriate, encourage, facilitate, and assist activities carried out by former volunteers in furtherance of such goal and the efforts of agencies, organizations, and other individuals to support or assist in former volunteers' carrying out such activities.

EXCLUSIVE RIGHT TO SEAL AND NAME [104]

Sec. 19.[104] (a) The President may adopt, alter and use an official seal or emblem of the Peace Corps of such design as he shall determine which shall be judicially noticed.

(b)(1) The use of the official seal or emblem and the use of the name "Peace Corps" shall be restricted exclusively to designate programs authorized under this Act.

(2) Whoever, whether an individual, partnership, corporation, or association, uses the seal for which provision is made in this section, of any sign, insignia, or symbol in colorable imitation thereof, or the words "Peace Corps" or any combination of these or other words or characters, in colorable imitation thereof, other than to designate programs authorized under this Act, shall be fined not more than $500 or imprisoned not more than six months, or both. A violation of this subsection may be enjoined at the suit of the Attorney General, United States attorneys, or other persons duly authorized to represent the United States.

MORATORIUM ON STUDENT LOANS

Sec. 20.[105] * * * [Repealed—1966]

AMENDMENT TO CIVIL SERVICE RETIREMENT ACT

Sec. 21.[106] * * * [Repealed—1966]

SECURITY INVESTIGATIONS

Sec. 22.[107] All persons employed or assigned to duties under this Act shall be investigated to insure that the employment or assignment is consistent with the national interest in accordance with standards and procedures established by the President. If an investigation made pursuant to this section develops any data reflecting that the person who is the subject of the investigation is of questionable loyalty or is a questionable security risk, the investigating agency shall refer the matter to the Federal Bureau of Investigation for the conduct of a full field investigation. The results of that

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this Act except in cases where the President determined that such application would be detrimental to U.S. interests.

[104] 22 U.S.C. 2518. Sec. 7 of Public Law 88–200 (77 Stat. 360) substituted the title "EXCLUSIVE RIGHT TO SEAL AND NAME" in lieu of the title "SEAL"; added subsection designation "(a)" and added subsec. (b).

[105] Sec. 5(a) of Public Law 89–572 repealed former sec. 20 (75 Stat. 623), which related to the moratorium on student loans. Such repeal, by virtue of sec. 5(b) of Public Law 89–572, does not affect the amendment of sec. 205 of the National Defense Education Act of 1958 (20 U.S.C. 425) contained in the former sec. 20.

[106] Sec. 5(a) of Public Law 89–572 repealed former sec. 21 (75 Stat. 623), which related to amendment to the Civil Service Retirement Act. Such repeal, by virtue of section 5(b) of Public Law 89–572 does not affect the amendment of subsec. (j) of sec. 3 of the Civil Service Retirement Act, as amended (5 U.S.C. 8333), contained in the former sec. 21.

[107] 22 U.S.C. 2519.

full field investigation shall be furnished to the initial investigating agency, and to the agency by which the subject person is employed, for information and appropriate action. Volunteers shall be deemed employees of the United States Government for the purpose of this section.

UNIVERSAL MILITARY TRAINING AND SERVICE ACT

Sec. 23.[108] Notwithstanding the provisions of any other law or regulation, service in the Peace Corps as a volunteer shall not in any way exempt such volunteer from the performance of any obligations or duties under the provisions of the Universal Military Training and Service Act.

FOREIGN LANGUAGE PROFICIENCY

Sec. 24.[109] No person shall be assigned to duty as a volunteer under this Act in any foreign country or area unless at the time of such assignment he possesses such reasonable proficiency as his assignment requires in speaking the language of the country or area to which he is assigned.

NONPARTISAN APPOINTMENTS

Sec. 25.[110] In carrying out this Act, no political test or political qualification may be used in—

(1) selecting any person for enrollment as a volunteer or for appointment to a position at, or for assignment to (or for employment for assignment to), a duty station located abroad, or

(2) promoting or taking any other action with respect to any volunteer or any person assigned to such a duty station.

DEFINITIONS

Sec. 26.[110, 111] (a) The term "abroad" means any area outside the United States.

(b) The term of "United States" means the several States [112] and the District of Columbia.

(c) The term "function" includes any duty, obligation, right, power, authority, responsibility, privilege, discretion, activity and program.

(d) The term "health care" includes all appropriate examinations, preventive, curative, and restorative health and medical care, and supplementary services when necessary.

(e) For the purposes of this or any other Act, the period of any individual's service as a volunteer under this Act shall include—

(i) except for the purposes of section 5(f) of this Act, any period of training under section 8(a) prior to enrollment as a volunteer under this Act; and

[108] 22 U.S.C. 2520.
[109] 22 U.S.C. 2521.
[110] 22 U.S.C. 2521a. Added by sec. 1105(a)(2) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 276). Sec. 1105(a)(1) of such Act redesignated existing secs. 25, 26, and 27 as secs. 26, 27, and 28, respectively.
[111] 22 U.S.C. 2522.
[112] Sec. 4 of Public Law 89–572 (80 Stat. 765) struck out "and territories" at this point.

(ii) the period between enrollment as a volunteer and the termination of service as such volunteer by the President or by death or resignation.

(f) The term "United States Government agency" includes any department, board, wholly or partly owned corporation, or instrumentality, commission, or establishment of the United States Government.

(g) The word "transportation" in sections 5(b), 5(m), and 6(2) includes transportation of not to exceed three hundred pounds per person of unaccompanied necessary personal and household effects.

CONSTRUCTION

Sec. 27.[110, 113] If any provision of this Act or the application of any provision to any circumstances or persons shall be held invalid, the validity of the remainder of this Act and the applicability of such provision to other circumstances or persons shall not be affected thereby.

EFFECTIVE DATE

Sec. 28.[110, 114] This Act shall take effect on the date of its enactment.

TITLE II—AMENDMENT OF INTERNAL REVENUE CODE AND SOCIAL SECURITY ACT

TAXATION OF ALLOWANCES

Sec. 201.[115] * * * [Repealed—1966]

SOCIAL SECURITY COVERAGE

Sec. 202.[115] * * * [Repealed—1966]

TITLE III—ENCOURAGEMENT OF VOLUNTARY SERVICE PROGRAMS [116]

Sec. 301. (a) [117] The Congress declares that it is the policy of the United States and a further purpose of this Act (1) to encourage countries and areas to establish programs under which their citizens and nationals would volunteer to serve in order to help meet the needs of less developed countries or areas for trained manpower; (2) to encourage less developed countries or areas to establish programs under which their citizens and nationals would volunteer to serve in order to meet their needs for trained manpower; and (3) to encourage the development of, and participation in, international voluntary service programs and activities.

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[113] 22 U.S.C. 2523.
[114] 22 U.S.C. 2501 note.
[115] Repealed by Public Law 89–572.
[116] 22 U.S.C. 2501a. Added by sec. 8 of Public Law 88–200 (77 Stat. 360).
[117] Sec. 3(1) of Public Law 91–99 (83 Stat. 166) amended and restated subsec. (a), which previously read as follows: "(a) The Congress declares that it is the policy of the United States and a further purpose of this Act to encourage countries and areas to establish programs under which their citizens and nationals would volunteer to serve in order to help meet the needs of less developed countries or areas for trained manpower, and to encourage less developed countries or areas to establish programs under which their citizens and nationals would volunteer to serve in order to meet their needs for trained manpower.".

(b)(1)[118] Activities carried out by the President in furtherance of the purposes of clauses (1) and (2) of subsection (a) shall be limited to—

(A) furnishing technical assistance, materials, tools, supplies, and training appropriate to the support of volunteer programs in such countries or areas; and

(B) conducting demonstration projects in such countries or areas.

None of the funds made available to carry out the purposes of clauses (1) and (2) of subsection (a) may be used to pay the administrative costs of any program or project, other than a demonstration project, or to assist any program or project of a paramilitary or military nature. Funds allocated for activities set forth in this paragraph should be kept to a minimum so that such allocation will not be detrimental to other Peace Corps programs and activities.

(2)[119] Not more than 2 per centum of the amount appropriated to the Peace Corps for a fiscal year may be used in such fiscal year[120, 121] to carry out the provisions of clause (3) of subsection (a) of this section. Such funds may be contributed to educational institutions, private voluntary organizations, international organizations, and foreign governments or agencies thereof, to pay a fair and proportionate share of the costs of encouraging the development of, and participation in, international voluntary programs and activities.

(c) Such activities shall not compromise the national character of the Peace Corps.

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[118] Sec. 7 of Public Law 95–331 (92 Stat. 415) amended and restated para. (1). It formerly read as follows:

"(1) Activities carried out by the President in furtherance of the purposes of clauses (1) and (2) of subsection (a) of this section shall be limited to the furnishing of knowledge and skills relating to the selection, training, and programing of volunteer manpower. None of the funds available for use in the furtherance of such purposes may be contributed to any international organization or to any foreign government or agency thereof; nor may such funds be used to pay the costs of developing or operating volunteer programs of such organization, government, or agency, or to pay any other costs of such organization, government, or agency.".

[119] Sec. 402 of Public Law 92–352 (86 Stat. 495) amended and restated para. (2).

[120] The 2 per centum appropriation limitation was substituted in lieu of a limitation of $350,000 in any fiscal year by sec. 8 of Public Law 95–331 (92 Stat. 416). Sec. 8 further provided that this amendment would become effective on Oct. 1, 1978.

[121] Sec. 112(b) of the Fiscal Year Transition Act (Public Law 94–274) provided that for the period July 1, 1976 through Sept. 30, 1976, the limitation on expenditures in sec. 301(b)(2) shall be $100,000.

2. Establishment of the Peace Corps as an Independent Agency

Partial text of Public Law 97–113 [International Security and Development Cooperation Act of 1981; S. 1196], 95 Stat. 1519 at 1540, approved December 29, 1981

* * * * * * *

TITLE VI—PEACE CORPS

ESTABLISHMENT AS AN INDEPENDENT AGENCY

Sec. 601. (a)[1] * * *

(b)[2] There are transferred to the Director of the Peace Corps all functions relating to the Peace Corps which were vested in the Director of the ACTION Agency on the day before the date of the enactment of this Act.

(c)(1)[2] All personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds as are determined by the Director of the Office of Management and Budget, after consultation with the Comptroller General of the United States, the Director of the Peace Corps, and the Director of the ACTION Agency, to be employed, held, used, or assumed primarily in connection with any function relating to the Peace Corps before the date of the enactment of this Act are transferred to the Peace Corps. The transfer of unexpended balances pursuant to the preceding sentence shall be subject to section 202 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c).

(2)(A) The transfer pursuant to this subsection of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any employee to be separated or reduced in rank, class, grade, or compensation, or otherwise suffer a loss of employment benefits for one year after—

(i) the date on which the Director of the Office of Management and Budget submits the report required by subsection (f)(1) of this section, or

(ii) the effective date of the transfer of such employee,

whichever occurs later.

(B) The personnel transferred pursuant to this subsection shall, to the maximum extent feasible, be assigned to such related functions and organizational units in the Peace Corps as such personnel were assigned to immediately before the date of the enactment of this Act.

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[1] Subsec. (a) added a new sec. 2A to the Peace Corps Act establishing the Peace Corps as an independent agency.

[2] 22 U.S.C. 2501–1 note.

(C) Collective-bargaining agreements in effect on the date of the enactment of this Act covering personnel transferred pursuant to this subsection or employed on such date of enactment by the Peace Corps shall continue to be recognized by the Peace Corps until the termination date of such agreements or until such agreements are modified in accordance with applicable procedures.

(3) Under such regulations as the President may prescribe, each person who, immediately before the date of the enactment of this Act, does not hold an appointment under section 7(a)(2) of the Peace Corps Act and who is determined under paragraph (1) of this subsection to be employed primarily in connection with any function relating to the Peace Corps shall, effective on the date of the enactment of this Act, and notwithstanding subparagraph (B) of section 7(a)(2) of the Peace Corps Act, be appointed a member of the Foreign Service under section 7(a)(2) of the Peace Corps Act, and be appointed or assigned to an appropriate class of the Foreign Service, except that—

(A) any person who, immediately before such date of enactment, holds a career or career-conditional appointment shall not, without the consent of such person, be so appointed until three years after such date of enactment, during which period any such person not consenting to be so appointed may continue to hold such career or career-conditional appointment; and

(B) each person so appointed who, immediately before such date of enactment, held a career or career-conditional appointment at grade GS–8 or lower of the General Schedule established by section 5332 of title 5, United States Code, shall be appointed a member of the Foreign Service for the duration of operations under the Peace Corps Act.

Each person appointed under this paragraph shall receive basic compensation at the rate of such person's class determined by the President to be appropriate, except that the rate of basic compensation received by such person immediately before the effective date of such person's appointment under this paragraph shall not be reduced as a result of the provisions of this paragraph.

(d)(1)[3] * * *

(2)[4] The Director of the Peace Corps shall continue to exercise all the functions under the Peace Corps Act or any other law or authority which the Director was performing on December 14, 1981.

(e)(1)[5] * * *

(2)[6] The amendment made by paragraph (1) of this subsection shall not alter or affect (A) the validity of any action taken before the date of the enactment of this Act under those provisions of law repealed by that amendment, or (B) the liability of any person for any payment described in section 3(f) of the Peace Corps Act as in effect immediately before the date of the enactment of this Act.

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[3] Subsec. (d)(1) amended sec. 4(b) of the Peace Corps Act.

[4] 22 U.S.C. 2503 note.

[5] Subsec. (e)(1) amended sec. 3 of the Peace Corps Act.

[6] 22 U.S.C. 2502 note. Para. (1) of subsec. (e) amended sec. 3 of the Peace Corps Act by repealing existing subsecs. (d), (e), and (f). See footnote 11, page 1553, for discussion of the subject matter of these repealed provisions.

(f)(1) Not later than the thirtieth day after the date of the enactment of this Act, or February 15, 1982, whichever occurs later, the Director of the Office of Management and Budget, after consultation with the Director of the Peace Corps and the Director of the ACTION Agency, shall submit to the appropriate committees of the Congress and to the Comptroller General a report on the steps taken to implement the provisions of this title, including descriptions of the dispositions of administrative matters, including matters relating to personnel, assets, liabilities, contracts, property, records, and unexpended balances or appropriations, authorizations, allocations, and other funds employed, used, held, available, or to be made available in connection with functions or activities relating to the Peace Corps.

(2) Not later than the forty-fifth day after the date of the enactment of this Act, or March 1, 1982, whichever occurs later, the Comptroller General shall submit to the appropriate committees of the Congress a report stating whether, in the judgment of the Comptroller General, determinations made by the Director of the Office of Management and Budget under subsection (c)(1) of this section were equitable.

(g)[2] References in any statute, reorganization plan, Executive order, regulation, or other official document or proceeding to the ACTION Agency or the Director of the ACTION Agency with respect to functions or activities relating to the Peace Corps shall be deemed to refer to the Peace Corps or the Director of the Peace Corps, respectively.

* * * * * * *

RESTORATION OF CERTAIN AUTHORITIES FORMERLY CONTAINED IN THE FOREIGN SERVICE ACT

Sec. 604.[7] (a) * * *

(b) * * *

(c)[8] To the extent that the authorities provided by the amendments made by subsection (a) are authorities which are not applicable with respect to the Peace Corps immediately before the enactment of this Act and which require the expenditure of funds, those authorities may not be exercised using any funds appropriated after February 15, 1981, and before the date of enactment of this Act.

* * * * * * *

[7] Subsec. (a) amended sec. 10 of the Peace Corps Act by adding new subsecs. (i) and (j).
[8] 22 U.S.C. 2509 note.

3. Paul D. Coverdell Programs

a. Paul D. Coverdell Peace Corps Headquarters

Public Law 107–21 [S. 360], 115 Stat. 194, approved July 26, 2001

AN ACT To honor Paul D. Coverdell.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1.[1] PEACE CORPS HEADQUARTERS.

(a) IN GENERAL.—Effective on the date of enactment of this Act, the headquarters offices of the Peace Corps, wherever situated, shall be referred to as the "Paul D. Coverdell Peace Corps Headquarters".

(b) REFERENCES.—Any reference before the date of enactment of this Act in any law, regulation, order, document, record, or other paper of the United States to the headquarters or headquarters offices of the Peace Corps shall, on and after such date, be considered to refer to the Paul D. Coverdell Peace Corps Headquarters.

SEC. 2. WORLD WISE SCHOOLS PROGRAM.

Section 603 of the Paul D. Coverdell World Wise Schools Act of 2000 (title VI of Public Law 106–570) is amended by adding at the end the following new subsection: * * *

SEC. 3. PAUL D. COVERDELL BUILDING.

(a) AWARD.—From the amount appropriated under subsection (b) the Secretary of Education shall make an award to the University of Georgia to support the construction of the Paul D. Coverdell Building at the Institute of the Biomedical and Health Sciences at the University of Georgia.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $10,000,000 for fiscal year 2002.

[1] 22 U.S.C. 2501 note.

b. Paul D. Coverdell World Wise Schools Act of 2000

Title VI of Public Law 106–570 [Assistance for International Malaria Control Act; S. 2943], 114 Stat. 3038, approved December 27, 2000; as amended by Public Law 107–21 [S. 360], 115 Stat. 194, approved July 26, 2001

AN ACT To authorize additional assistance for international malaria control, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of American in Congress assembled,

* * * * * * *

TITLE VI—PAUL D. COVERDELL WORLD WISE SCHOOLS ACT OF 2000 [1]

SEC. 601. SHORT TITLE.

This title may be cited as the "Paul D. Coverdell World Wise Schools Act of 2000".

SEC. 602. FINDINGS.

Congress makes the following findings:

(1) Paul D. Coverdell was elected to the Georgia State Senate in 1970 and later became Minority Leader of the Georgia State Senate, a post he held for 15 years.

(2) As the 11th Director of the Peace Corps from 1989 to 1991, Paul Coverdell's dedication to the ideals of peace and understanding helped to shape today's Peace Corps.

(3) Paul D. Coverdell believed that Peace Corps volunteers could not only make a difference in the countries where they served but that the greatest benefit could be felt at home.

(4) In 1989, Paul D. Coverdell founded the Peace Corps World Wise Schools Program to help fulfill the Third Goal of the Peace Corps, "to promote a better understanding of the people served among people of the United States".

(5) The World Wise Schools Program is an innovative education program that seeks to engage learners in an inquiry about the world, themselves, and others in order to broaden perspectives; promote cultural awareness; appreciate global connections; and encourage service.

(6) In a world that is increasingly interdependent and ever changing, the World Wise Schools Program pays tribute to Paul D. Coverdell's foresight and leadership. In the words of one World Wise Schools teacher, "It's a teacher's job to touch the future of a child; it's the Peace Corps' job to touch the future of the world. What more perfect partnership.".

[1] 22 U.S.C. 2517 note.

(7) Paul D. Coverdell served in the United States Senate from the State of Georgia from 1993 until his sudden death on July 18, 2000.

(8) Senator Paul D. Coverdell was beloved by his colleagues for his civility, bipartisan efforts, and his dedication to public service.

SEC. 603. DESIGNATION OF PAUL D. COVERDELL WORLD WISE SCHOOLS PROGRAM.

(a) IN GENERAL.—Effective on the date of enactment of this Act, the program under section 18 of the Peace Corps Act (22 U.S.C. 2517) referred to before such date as the "World Wise Schools Program" is redesignated as the "Paul D. Coverdell World Wise Schools Program".

(b) REFERENCES.—Any reference before the date of enactment of this Act in any law, regulation, order, document, record, or other paper of the United States to the Peace Corps World Wise Schools Program shall, on and after such date, be considered to refer to the Paul D. Coverdell World Wise Schools Program.

(c)[2] NEW REFERENCES IN PEACE CORPS DOCUMENTS.—The Director of the Peace Corps shall ensure that any reference in any public document, record, or other paper of the Peace Corps, including any promotional material, produced on or after the date of enactment of this subsection, to the program described in subsection (a) be a reference to the "Paul D. Coverdell World Wise Schools Program".

[2] Sec. 2 of Public Law 108–21 (115 Stat. 194) added subsec. (c).

c. Paul D. Coverdell Fellows Program Act of 2000

Partial text of Public Law 106–309 [Microenterprise for Self-Reliance and International Anti-Corruption Act of 2000; H.R. 1143], 114 Stat. 1078, approved October 17, 2000

AN ACT To establish a program to provide assistance for programs of credit and other financial services for microenterprises in developing countries, and for other purposes.

* * * * * * *

SEC. 408.[1] PAUL D. COVERDELL FELLOWS PROGRAM ACT OF 2000.

(a) SHORT TITLE.—This section may be cited as the "Paul D. Coverdell Fellows Program Act of 2000".

(b) FINDINGS.—Congress makes the following findings:

(1) Paul D. Coverdell was elected to the George State Senate in 1970 and later became Minority Leader of the Georgia State Senate, a post he held for 15 years.

(2) Paul D. Coverdell served with distinction as the 11th Director of the Peace Corps from 1989 to 1991, where he promoted a fellowship program that was composed of returning Peace Corps volunteers who agreed to work in underserved American communities while they pursued educational degrees.

(3) Paul D. Coverdell served in the United States Senate from the State of Georgia from 1993 until his sudden death on July 18, 2000.

(4) Senator Paul D. Coverdell was beloved by his colleagues for his civility, bipartisan efforts, and his dedication to public service.

(c) DESIGNATION OF PAUL D. COVERDELL FELLOWS PROGRAM.—

(1) IN GENERAL.—Effective on the date of the enactment of this Act, the program under section 18 of the Peace Corps Act (22 U.S.C. 2517) referred to before such date as the "Peace Corps Fellows/USA Program" is redesignated as the "Paul D. Coverdell Fellows Program".

(2) REFERENCES.—Any reference before the date of the enactment of this Act in any law, regulation, order, document, record, or other paper of the United States to the Peace Corps Fellows/USA Program shall, on and after such date, be considered to refer to the Paul D. Coverdell Fellows Program.

[1] 22 U.S.C. 2517 note.

4. Peace Corps Reauthorization

a. Peace Corps Authorization—Fiscal Years 1994 and 1995

Partial text of Public Law 103–236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994

AN ACT To authorize appropriations for the Department of State, the United States Information Agency, and related agencies, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * * * *

TITLE VI—PEACE CORPS

SEC. 601. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $219,745,000 for the fiscal year 1994 and $234,745,000 for the fiscal year 1995 to carry out the Peace Corps Act.

(b) AVAILABILITY OF FUNDS.—Funds made available to the Peace Corps pursuant to the authorization under subsection (a) shall be available for the fiscal year for which appropriated and the subsequent year.

SEC. 602. AMENDMENTS TO THE PEACE CORPS ACT. * * *

b. Peace Corps Authorization—Fiscal Year 1993

Partial text of Public Law 102–565 [S. 3309], 106 Stat. 4265, approved October 28, 1992

AN ACT To amend the Peace Corps Act to authorize appropriations for the Peace Corps for fiscal year 1993 and to establish a Peace Corps foreign exchange fluctuations account, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1.[1] AUTHORIZATIONS OF APPROPRIATIONS. * * *

SEC. 2. PEACE CORPS FOREIGN CURRENCY FLUCTUATIONS.

(a)[2] ESTABLISHMENT OF FOREIGN CURRENCY FLUCTUATIONS ACCOUNT.—* * *

(b)[3] EFFECTIVE DATE.—The amendment made by subsection (a) applies with respect to each fiscal year after fiscal year 1992.

SEC. 3.[4] EVALUATION OF HEALTH-CARE SERVICES PROVIDED TO PEACE CORPS VOLUNTEERS.

(a) IN GENERAL.—The Director of the Peace Corps shall contract with an eligible organization or organizations to conduct before January 1, 1997, a total of three evaluations of the health-care needs of the Peace Corps volunteers and the adequacy of the system through which the Peace Corps provides health-care services in meeting those needs.

(b) REQUIREMENTS OF THE EVALUATIONS.—Each evaluation shall include an assessment of the adequacy of the Peace Corps health-care system—

(1) to provide diagnostic, treatment, and referral services to meet the health-care needs of Peace Corps volunteers, and

(2) to conduct health examinations of applicants for enrollment as Peace Corps volunteers and to provide immunization and dental care preparatory to service of applicants for enrollment who have accepted an invitation to begin a period of training for service as a Peace Corps volunteer.

(c) REPORTS TO THE PEACE CORPS.—An organization making an evaluation under this section shall submit to the Director of the Peace Corps a report containing its findings and recommendations not later than May 31, 1993, December 31, 1994, and December 31, 1996, as the case may be. Each report shall include recommendations regarding appropriate standards and procedures for ensuring the furnishing of quality medical care and for measuring the quality of care provided to Peace Corps volunteers.

(d) REPORT TO CONGRESS.—Not later than 90 days after receipt of a report required by subsection (c), the Director of the Peace

[1] Sec. 1 amended the Peace Corps Act at sec. 3(b) (22 U.S.C. 2502(b)).
[2] Subsec. (a) added a new sec. 16 to the Peace Corps Act (22 U.S.C. 2515).
[3] 22 U.S.C. 2515 note.
[4] 22 U.S.C. 2504 note.

Corps shall transmit the report, together with the Director's comments, to the appropriate congressional committees.

(e) DEFINITIONS.—For purposes of this section—

(1) the term "appropriate congressional committees" means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs[5] and the Committee on Appropriations of the House of Representatives; and

(2) the term "eligible organization" means an independent health-care accreditation organization or other independent organization with expertise in evaluating health-care systems similar to that of the Peace Corps.

SEC. 4. REPORTING REQUIREMENT ON EMPLOYMENT-RELATED MATTERS.

(a) IN GENERAL.—Not later than May 31, 1992, the Director of the Peace Corps and the Secretary of Labor shall jointly submit to the appropriate congressional committees a report which describes—

(1) the information provided by the Peace Corps to its volunteers and to applicants for volunteer service in the Peace Corps regarding the benefits and services to which Peace Corps volunteers or trainees may be entitled or for which they may be eligible in the event that they sustain injuries or become disabled during their service, or their training for service, with the Peace Corps;

(2) the efforts by the Peace Corps and the Department of Labor to coordinate the provision of such information to Peace Corps volunteer-applicants and volunteers and the processing of claims by Peace Corps volunteers under the Federal Employees Compensation Act (FECA);

(3) the number of Peace Corps volunteers and volunteer-applicants who have filed claims under the Federal Employees Compensation Act (FECA) and the percentage of the claims that have been approved; and

(4) the timeliness of approvals or denials of claims of Peace Corps volunteers and volunteer-applicants under the Federal Employees Compensation Act (FECA).

(b) RECOMMENDATIONS.—The report required by subsection (a) shall also include such recommendations as the Director of the Peace Corps and the Secretary of Labor may determine necessary to facilitate the filing and processing of claims by Peace Corps volunteers regarding the benefits described in that subsection.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "appropriate congressional committees" means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs[5] and the Committee on Appropriations of the House of Representatives; and

(2) the term "Federal Employees Compensation Act (FECA)" means chapter 81 of title 5, United States Code.

[5] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

SEC. 5. PEACE CORPS PROGRAMS IN THE FORMER SOVIET UNION.

(a) AVAILABILITY OF FUNDS.—Up to $6,000,000 of the funds made available to carry out the Peace Corps Act for fiscal year 1993 shall be made available for establishing Small Business Development Programs in the independent states of the former Soviet Union. The programs shall include the promotion of local economic development by providing technical assistance and training in municipal restructuring and financing, privatization, valuation of state-owned enterprises, the development and promotion of business associations, and the identification of investment opportunities and requirements.

(b) DEFINITION.—For purposes of this section, the term "independent states of the former Soviet Union" means the following (which formerly were part of the Soviet Union): Armenia, Azerbaijan, Byelarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.

c. Peace Corps Authorization for Fiscal Years 1986 and 1987

Partial text of Public Law 99–83 [S. 960], 99 Stat. 190 at 272, approved August 8, 1985

AN ACT To authorize international development and security assistance programs and Peace Corps programs for fiscal years 1986 and 1987, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * * * *

TITLE XI—PEACE CORPS

SEC. 1101.[1] AUTHORIZATION OF APPROPRIATIONS. * * *

SEC. 1102.[2] NUMBER OF PEACE CORPS VOLUNTEERS. * * *

SEC. 1103. LIMITATION ON LENGTH OF PEACE CORPS EMPLOYMENT

(a) * * *

(b)[3] REPORTS TO CONGRESS.—The Director of the Peace Corps shall, not later than January 1, 1986, submit to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs[4] of the House of Representatives a report describing the criteria to be applied by the Director in exercising the authority provided by the amendments made by subsection (a) to make appointments or assignments of individuals for periods of more than five years. Not later than each January 1 thereafter, the Director shall submit to the Committees referred to in the preceding sentence a report on—

(1) the exercise of such authority during the preceding fiscal year for each of the purposes specified in paragraph (5) of section 7(a) of the Peace Corps Act, as added by subsection (a) of this section; and

(2) the exercise during that fiscal year of the authority under paragraph (6) of such section 7(a), as added by subsection (a) of this section.

SEC. 1104. PEACE CORPS NATIONAL ADVISORY COUNCIL.

(a) * * *

(b)[5] TERMINATION OF SIMILAR ADVISORY BODY.—Any advisory body carrying out functions similar to those assigned to the Peace Corps National Advisory Council provided for in subsection (a)

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[1] Sec. 1101 amended sec. 3(b) of the Peace Corps Act (22 U.S.C. 2502) to establish funding levels for fiscal years 1986 and 1987.

[2] Sec. 1102 amended secs. 2 and 11 of the Peace Corps Act (22 U.S.C. 2501 and 2510, respectively).

[3] 22 U.S.C. 2506 note.

[4] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

[5] 22 U.S.C. 2511 note.

shall cease to exist sixty days after the date of the enactment of this Act.

* * * * * * *

5. Independent Implementing Provisions of Public Law 89–134

Partial text of Public Law 89–134 [S. 2045], 79 Stat. 549, approved August 24, 1965

* * * * * * *

The new Peace Corps personnel system provided for in sec. 7 of the Peace Corps Act, as amended by sec. 4 of Public Law 89–134 and sec. 302 of Public Law 96–53, is to be implemented according to sec. 5 of Public Law 89–134 which is set forth below.

* * * * * * *

Sec. 5.[1] (a) Section 4 of this Act shall not become effective until the first day of the fourth pay period which begins after the date this Act becomes law.

(b) Under such regulations as the President may prescribe, each person employed under authorities repealed by section 4(a) of this Act immediately prior to the effective date of that section shall effective on that date be appointed a Foreign Service Reserve officer or Foreign Service staff officer or employee under the authority of section 7(a)(2) of the Peace Corps Act, as amended, and appointed or assigned to an appropriate class thereof; except that—

(1) no person who holds a career or career-conditional appointment immediately prior to the effective date of section 4(a) of this Act shall, without his consent, be so appointed until three years after such effective date; and

(2) each person so appointed who, immediately prior to the effective date of section 4(a) of this Act, held a career or career-conditional appointment at grade 8 or below of the General Schedule established by the Classification Act of 1949, as amended, shall receive an appointment for the duration of operations under the Peace Corps Act, as amended.

Each person appointed under this subsection shall receive basic compensation at the rate of his class determined by the President to be appropriate, but the rate of basic compensation received by such person immediately prior to the effective date of his appoint-

[1] 22 U.S.C. 2506 note.

ment under this subsection shall not be reduced by the provisions of this subsection.

* * * * * * *

6. Higher Education Amendments of 1986

Partial text of Public Law 99–498 [S. 1965], 100 Stat. 1268, approved October 17, 1986; amended by Public Law 102–325 [Higher Education Amendments of 1992; S. 1150], 106 Stat. 448, approved July 23, 1992 [1]

* * * * * * *

SEC. 465.[2] (a) CANCELLATION OF PERCENTAGE OF DEBT BASED ON YEARS OF QUALIFYING SERVICE.—(1) The percent specified in paragraphs (3) of this subsection of the total amount of any loan made after June 30, 1972, from a student loan fund assisted under this part shall be canceled for each complete year of service after such date by the borrower under circumstances described in paragraph (2).

(2) Loans shall be canceled under paragraph (1) for service—

* * * * * * *

(E)[3] as a volunteer under the Peace Corps Act or a volunteer under the Domestic Volunteer Service Act of 1973;

* * * * * * *

[1] Public Law 102–325 amended and restated sec. 464 (20 U.S.C. 1087dd), eliminating the terms and conditions for deferring the repayment of student loans for Peace Corps volunteers.
[2] 20 U.S.C. 1087ee.
[3] 22 U.S.C. 2501 note.

7. National and Community Service Act of 1990

Partial text of Public Law 101–610 [S. 1430], 104 Stat. 3127, approved November 16, 1990; amended by Public Law 102–384 [National and community Service Technical Amendment Act of 1992; S. 3175], 106 Stat. 1455, approved October 5, 1992; and by Public Law 103–82 [National and Community Service Trust Act of 1993; H.R. 2010], 107 Stat. 785, approved September 21, 1993

AN ACT To enhance national and community service, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1.[1] SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "National and Community Service Act of 1990".

NOTE.—Title I, subtitle E, of the National and Community Service Act of 1990, relating to "Innovative and Demonstration Programs and Projects", including provisions for training and educational benefits demonstration programs to be carried out under the authority of the Director of the Peace Corps and the Director of ACTION (part III; 42 U.S.C. 12611 *et seq.*) was repealed by sec. 104(a) of the National and Community Service Trust Act of 1993 (Public Law 103–82; 107 Stat. 840).

Here follow sections of the National and Community Service Act of 1990, as amended, that take into consideration the participation of the Peace Corps, and its returning volunteers, in programs of the Corporation of National and Community Service.

* * * * * * *

[1] 42 U.S.C. 12401 note.

SUBTITLE C—NATIONAL SERVICE TRUST PROGRAM[2]

PART I—INVESTMENT IN NATIONAL SERVICE

SEC. 121.[3] AUTHORITY TO PROVIDE ASSISTANCE AND APPROVED NATIONAL SERVICE POSITIONS.

(a) PROVISION OF ASSISTANCE.—Subject to the availability of appropriations for this purpose, the Corporation for National and Community Service[4] may make grants to States, subdivisions of States, Indian tribes, public or private nonprofit organizations, and institutions of higher education for the purpose of assisting the recipients of the grants—

(1) to carry out full- or part-time national service programs, including summer programs, described in section 122(a); and

(2) to make grants in support of other national service programs described in section 122(a) that are carried out by other entities.

* * * * * * *

SEC. 122.[5] TYPES OF NATIONAL SERVICE PROGRAMS ELIGIBLE FOR PROGRAM ASSISTANCE.

(a) ELIGIBLE NATIONAL SERVICE PROGRAMS.—The recipient of a grant under section 121(a) and each Federal agency receiving assistance under section 121(b) shall use the assistance, directly or through subgrants to other entities, to carry out full- or part-time national service programs, including summer programs, that address unmet human, educational, environmental, or public safety needs. Subject to subsection (b)(1), these national service programs may include the following types of national service programs:

(1) A community corps program that meets unmet human, educational, environmental, or public safety needs and promotes greater community unity through the use of organized teams of participants of varied social and economic backgrounds, skill levels, physical and developmental capabilities, ages, ethnic backgrounds, or genders.

(2) A full-time, year-round youth corps program or full-time summer youth corps program, such as a conservation corps or youth service corps (including youth corps programs under subtitle I, the Public Lands Corps established under the Public Lands Corps Act of 1993, the Urban Youth Corps established under section 106 of the National and Community Service Trust Act of 1993, and other conservation corps or youth service corps that performs service on Federal or other public lands or on Indian lands or Hawaiian home lands), that—

(A) undertakes meaningful service projects with visible public benefits, including natural resource, urban renovation, or human services projects;

(B) includes as participants youths and young adults between the ages of 16 and 25, inclusive, including out-of-

[2] Added by sec. 101(b) of the National and Community Service Trust Act of 1993 (Public Law 103–82; 107 Stat. 788).

[3] 42 U.S.C. 12571.

[4] The Corporation for National and Community Service, established in sec. 191 of this Act, as amended by sec. 202(a) of Public Law 103–82 (107 Stat. 873). For composition, authorities and functions of the Corporation, see 42 U.S.C. 12651, 42 U.S.C. 12651a–h, and notes.

[5] 42 U.S.C. 12572.

school youths and other disadvantaged youths (such as youths with limited basic skills, youths in foster care who are becoming too old for foster care, youths of limited-English proficiency, homeless youths, and youths who are individuals with disabilities) who are between those ages; and

(C) provides those participants who are youths and young adults with—

(i) crew-based, highly structured, and adult-supervised work experience, life skills, education, career guidance and counseling, employment training, and support services; and

(ii) the opportunity to develop citizenship values and skills through service to their community and the United States.

(3) A program that provides specialized training to individuals in service-learning and places the individuals after such training in positions, including positions as service-learning coordinators, to facilitate service-learning in programs eligible for funding under part I of subtitle B.

(4) A service program that is targeted at specific unmet human, educational, environmental, or public safety needs and that—

(A) recruits individuals with special skills or provides specialized preservice training to enable participants to be placed individually or in teams in positions in which the participants can meet such unmet needs; and

(B) if consistent with the purposes of the program, brings participants together for additional training and other activities designed to foster civic responsibility, increase the skills of participants, and improve the quality of the service provided.

(5) An individualized placement program that includes regular group activities, such as leadership training and special service projects.

(6) A campus-based program that is designed to provide substantial service in a community during the school term and during summer or other vacation periods through the use of—

(A) students who are attending an institution of higher education, including students participating in a work-study program assisted under part C of title IV of the Higher Education Act of 1965 (42 U.S.C. 2751 et seq.);

(B) teams composed of such students; or

(C) teams composed of a combination of such students and community residents.

(7) A preprofessional training program in which students enrolled in an institution of higher education—

(A) receive training in specified fields, which may include classes containing service-learning;

(B) perform service related to such training outside the classroom during the school term and during summer or other vacation periods; and

(C) agree to provide service upon graduation to meet unmet human, educational, environmental, or public safety needs related to such training.

(8) A professional corps program that recruits and places qualified participants in positions—

(A) as teachers, nurses and other health care providers, police officers, early childhood development staff, engineers, or other professionals providing service to meet educational, human, environmental, or public safety needs in communities with an inadequate number of such professionals;

(B) that may include a salary in excess of the maximum living allowance authorized in subsection (a)(3) of section 140, as provided in subsection (c) of such section; and

(C) that are sponsored by public or private nonprofit employers who agree to pay 100 percent of the salaries and benefits (other than any national service educational award under subtitle D) of the participants.

(9) A program in which economically disadvantaged individuals who are between the ages of 16 and 24 years of age, inclusive, are provided with opportunities to perform service that, while enabling such individuals to obtain the education and employment skills necessary to achieve economic self-sufficiency, will help their communities meet—

(A) the housing needs of low-income families and the homeless; and

(B) the need for community facilities in low-income areas.

(10) A national service entrepreneur program that identifies, recruits, and trains gifted young adults of all backgrounds and assists them in designing solutions to community problems.

(11) An intergenerational program that combines students, out-of-school youths, and older adults as participants to provide needed community services, including an intergenerational component for other national service programs described in this subsection.

(12) A program that is administered by a combination of nonprofit organizations located in a low-income area, provides a broad range of services to residents of such area, is governed by a board composed in significant part of low-income individuals, and is intended to provide opportunities for individuals or teams of individuals to engage in community projects in such area that meet unaddressed community and individual needs, including projects that would—

(A) meet the needs of low-income children and youth aged 18 and younger, such as providing after-school "safe-places", including schools, with opportunities for learning and recreation; or

(B) be directed to other important unaddressed needs in such area.

(13) A community service program designed to meet the needs of rural communities, using teams or individual placements to address the development needs of rural communities

and to combat rural poverty, including health care, education, and job training.

(14) A program that seeks to eliminate hunger in communities and rural areas through service in projects—

(A) involving food banks, food pantries, and nonprofit organizations that provide food during emergencies;

(B) involving the gleaning of prepared and unprepared food that would otherwise be discarded as unusable so that the usable portion of such food may be donated to food banks, food pantries, and other nonprofit organizations;

(C) seeking to address the long-term causes of hunger through education and the delivery of appropriate services; or

(D) providing training in basic health, nutrition, and life skills necessary to alleviate hunger in communities and rural areas.

(15) Such other national service programs addressing unmet human, educational, environmental, or public safety needs as the Corporation may designate.

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PART III—NATIONAL SERVICE PARTICIPANTS

* * * * * * *

SEC. 138.[6] SELECTION OF NATIONAL SERVICE PARTICIPANTS.

(a)–(c) * * *

(d) RECRUITMENT AND PLACEMENT.—The Corporation and each State Commission shall establish a system to recruit individuals who desire to perform national service and to assist the placement of these individuals in approved national service positions, which may include positions available under titles I and II of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.). The Corporation and State Commissions shall disseminate information regarding available approved national service positions through cooperation with secondary schools, institutions of higher education, employment service offices, State vocational rehabilitation agencies within the meaning of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.) and other State agencies that primarily serve individuals with disabilities, and other appropriate entities, particularly those organizations that provide outreach to disadvantaged youths and youths who are individuals with disabilities.

(e) NATIONAL LEADERSHIP POOL.—

(1) SELECTION AND TRAINING.—From among individuals recruited under subsection (d), the Corporation may select individuals with significant leadership potential, as determined by the Corporation, to receive special training to enhance their leadership ability. The leadership training shall be provided by the Corporation directly or through a grant or contract.

(2) EMPHASIS ON CERTAIN INDIVIDUALS.—In selecting individuals to receive leadership training under this subsection, the Corporation shall make special efforts to select individuals who have served—

[6] 42 U.S.C. 12592.

(A) in the Peace Corps;

(B) as VISTA volunteers;

(C) as participants in national service programs receiving assistance under section 121;

(D) as participants in programs receiving assistance under subtitle D of the National and Community Service Act of 1990, as in effect on the day before the date of enactment of this subtitle; or

(E) as members of the Armed Forces of the United States and who were honorably discharged from such service.

(3) ASSIGNMENT.—At the request of a program that receives assistance under the national service laws, the Corporation may assign an individual who receives leadership training under paragraph (1) to work with the program in a leadership position and carry out assignments not otherwise performed by regular participants. An individual assigned to a program shall be considered to be a participant of the program.

(f) * * *

* * * * * * *

SUBTITLE G—CORPORATION FOR NATIONAL AND COMMUNITY SERVICE [7]

SEC. 191.[8] CORPORATION FOR NATIONAL AND COMMUNITY SERVICE.

There is established a Corporation for National and Community Service that shall administer the programs established under this Act. The Corporation shall be a Government corporation, as defined in section 103 of title 5, United States Code.

SEC. 192.[9] BOARD OF DIRECTORS.

(a) COMPOSITION.—

(1) IN GENERAL.—There shall be in the Corporation a Board of Directors (referred to in this subtitle as the "Board") that shall be composed of—

(A) 15 members, including an individual between the ages of 16 and 25 who—

(i) has served in a school-based or community-based service-learning program; or

(ii) is or was a participant or a supervisor in a program;

to be appointed by the President, by and with the advice and consent of the Senate; and

(B) the ex officio nonvoting members described in paragraph (3).

(2) QUALIFICATIONS.—To the maximum extent practicable, the President shall appoint members—

(A) who have extensive experience in volunteer or service activities, which may include programs funded under one of the national service laws, and in State government;

(B) who represent a broad range of viewpoints;

[7] Subtitle G was amended and restated by sec. 202(a) of Public Law 103–82 (107 Stat. 873).
[8] 42 U.S.C. 12651.
[9] 42 U.S.C. 12651a.

(C) who are experts in the delivery of human, educational, environmental, or public safety services;

(D) so that the Board shall be diverse according to race, ethnicity, age, gender, and disability characteristics; and

(E) so that no more than 50 percent of the appointed members of the Board, plus 1 additional appointed member, are from a single political party.

(3) EX OFFICIO MEMBERS.—The Secretary of Education, the Secretary of Health and Human Services, the Secretary of Labor, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Housing and Urban Development, the Secretary of Defense, the Attorney General, the Director of the Peace Corps, the Administrator of the Environmental Protection Agency, and the Chief Executive Officer shall serve as ex officio nonvoting members of the Board.

* * * * * * *

SUBTITLE H—INVESTMENT FOR QUALITY AND INNOVATION

SEC. 198.[10] ADDITIONAL CORPORATION ACTIVITIES TO SUPPORT NATIONAL SERVICE.

(a)–(g) * * *

(h) PEACE CORPS AND VISTA TRAINING.—The Corporation may provide training assistance to selected individuals who volunteer to serve in the Peace Corps or a program authorized under title I of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.). The training shall be provided as part of the course of study of the individual at an institution of higher education, shall involve service-learning, and shall cover appropriate skills that the individual will use in the Peace Corps or VISTA.

(i)–(r) * * *

* * * * * * *

SEC. 198D.[11] SPECIAL DEMONSTRATION PROJECT.

(a) SPECIAL DEMONSTRATION PROJECT FOR THE YUKON-KUSKOKWIM DELTA OF ALASKA.—The President may award grants to, and enter into contracts with, organizations to carry out programs that address significant human needs in the Yukon-Kuskokwim delta region of Alaska.

(b) APPLICATION.—

(1) GENERAL REQUIREMENTS.—To be eligible to receive a grant or enter into a contract under subsection (a) with respect to a program, an organization shall submit an application to the President at such time, in such manner, and containing such information as the President may require.

(2) CONTENTS.—The application submitted by the organization shall, at a minimum—

(A) include information describing the manner in which the program will utilize VISTA volunteers, individuals who have served in the Peace Corps, and other qualified per-

[10] 42 U.S.C. 12653. Subtitle H was added by sec. 104(c) of Public Law 103–82 (107 Stat. 840).
[11] 42 U.S.C. 12653d.

sons, in partnership with the local nonprofit organizations known as the Yukon-Kuskokwim Health Corporation and the Alaska Village Council Presidents;

(B) take into consideration—

(i) the primarily noncash economy of the region; and

(ii) the needs and desires of residents of the local communities in the region; and

(C) include specific strategies, developed in cooperation with the Yupi'k speaking population that resides in such communities, for comprehensive and intensive community development for communities in the Yukon-Kuskokwim delta region.

* * * * * * *

8. The Peace Corps—Establishment as Agency Within ACTION

Executive Order 12137, May 16, 1979, 44 F.R. 29023, 22 U.S.C. 2501 note; as amended by Executive Order 12245, October 6, 1980, 45 F.R. 66769; and by Executive Order 12399, December 31, 1982, 48 F.R. 379

By virtue of the authority vested in me by the Peace Corps Act, as amended (22 U.S.C. 2501–2523) and Section 301 of Title 3 of the United States Code, and as President of the United States of America, it is hereby ordered as follows:

1–1. Peace Corps.

1–101. The Peace Corps, which was established as an agency in the Department of State pursuant to Executive Order No. 10924 of March 1, 1961 (26 FR 1789), which was continued in existence in that Department under the Peace Corps Act (the "Act") pursuant to Section 102 of Executive Order No. 11041 of August 6, 1962 (27 FR 7859), and which was transferred to and continued as a component of ACTION by Executive Order No. 11603 of June 30, 1971 (36 FR 12675), shall be an agency within ACTION pursuant to the provisions of this Order.

1–102. All references to the "Director" in Part 1–1 of this Order shall refer to the Director of the Peace Corps for whom provision is made in Section 4(a) of the Act (22 U.S.C. 2503).

1–103. Exclusive of the functions otherwise delegated by or reserved to the President by this Order, and subject to the provisions of this Order, there are hereby delegated to the Director all functions conferred upon the President by the Act and by Section 2(b) of Reorganization Plan No. 1 of 1971.

1–104. The function of determining the portion of living allowances constituting basic compensation, conferred upon the President by Section 201(a) of Public Law 87–293 (26 U.S.C. 912(3)), is hereby delegated to the Director and shall be performed in consultation with the Secretary of the Treasury.

1–105. The functions of prescribing regulations and making determinations (relating to appointment of Peace Corps employees in the Foreign Service System), conferred upon the President by Section 5 of Public Law 89–135 (79 Stat. 551), are hereby delegated to the Director.

1–106. The functions of prescribing conditions, conferred upon the President by the second sentence of Section 5(e), as amended (22 U.S.C. 2504(e)), and the third proviso of Section 6 of the Act (22 U.S.C. 2505) (relating to providing health care in Government facilities) and hereinabove delegated to the Director, shall be exercised in consultation with the head of the United States Government agency responsible for the facility.

1–107. The reports required by Section 11 of the Act, as amended (22 U.S.C. 2510), shall be prepared by the Director and submitted to the Congress through the President.

1–108. Subject to applicable provisions of law, all funds appropriated or otherwise made available to the President for carrying out the provisions of the Act shall be deemed to be allocated without any further action of the President to the Director or to such subordinate officer as the Director may designate. The Director or such officer may allocate or transfer, as appropriate, any of such funds to any United States Government agency or part thereof for obligation or expenditures thereby consistent with applicable law.

1–109. Nothing in this Order shall be deemed to impair or limit the powers or functions vested in the Secretary of State by the Act.

1–110. The negotiation, conclusion, and termination of international agreements pursuant to the Act shall be under the direction of the Secretary of State.

1–111. Any substantial change in policies in effect on the date of this Order for the utilization of the Foreign Service Act of 1946, as amended, pursuant to Section 7 of the Act (22 U.S.C. 2506), shall be coordinated with the Secretary of State.

1–112. The Director shall consult and coordinate with the Director of ACTION to assure that the functions delegated to the Director by this Order are carried out consistently with the functions conferred upon the Director of ACTION by the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 *et seq.*), ("Volunteer Service Act"), Reorganization Plan No. 1 of 1971 and this Order.

1–2. The Peace Corps Advisory Council.[1] * * * [Revoked—1982]

1–3. Reservation of Functions to the President.

1–301. There are hereby excluded from the delegations made by Section 1–1 of this Order the following powers and functions of the President:

(a) All authority conferred by Sections 4(b), 4(c)(2), 4(c)(3), 10(d), and 18 of the Act (22 U.S.C. 2503(b), (C)(2), (C)(3), 2509(d), and 2517).

(b) The authority conferred by Section 4(a) of the Act (22 U.S.C. 2503(a)) to appoint the Director and the Deputy Director of the Peace Corps.

(c) The authority conferred on the President by Section 5(f)(1)(B) of the Act (22 U.S.C. 2504(f)(1)(B)).

(d) The authority conferred by Section 10(f) of the Act (22 U.S.C. 2509(f)) to direct any agency of the United States Government to provide services, facilities, and commodities to officers carrying out functions under the Act.

(e) The authority conferred by Section 19 of the Act (22 U.S.C. 2518) to adopt and alter an official seal or emblem of the Peace Corps.

[1] Sec. 4(k) of Executive Order 12399 revoked sec. 1–2, which had established the Peace Corps Advisory Council.

1–4. Incidental Provisions.

1–401. Persons appointed, employed, or assigned under Section 7(a) of the Act (22 U.S.C. 2506(a)) shall not, unless otherwise agreed by the agency in which such benefits may be exercised, be entitled to the benefits provided by Section 528 of the Foreign Service Act of 1946 (22 U.S.C. 928) in cases in which their service under the appointment, employment, or assignment exceeds thirty months.

1–402. Pursuant to Section 10(d) of the Act (22 U.S.C. 2509(d)), it is hereby determined to be in furtherance of the purposes of the Act that functions authorized thereby may be performed without regard to the applicable laws specified in Sections 1 and 2 of Executive Order No. 11223 of May 12, 1965, and with or without consideration as specified in Section 3 of that Order, but subject to the limitations set forth in that Order.

1–403. As used in this Order, the words "Volunteers," "functions," "United States," and "United States Government agency" shall have the same meanings, respectively, as they have under the Act.

1–5. National Voluntary Action Program.

1–501. The National Voluntary Action Program to encourage and stimulate more widespread and effective voluntary action for solving public domestic problems, established in the Executive Branch of the Government by Section 1 of Executive Order No. 11470 of May 26, 1969, is continued in ACTION. That program shall supplement corresponding action by private and other non-Federal organizations as the National Center for Voluntary Action. As used in this Order, the term "voluntary action" means the contribution or application of nongovernmental resources of all kinds (time, money, goods, services, and skills) by private and other organizations of all types (profit and nonprofit, national and local, occupational, and altruistic) and by individual citizens.

1–6. Direction of ACTION.

1–601. In addition to the functions vested in the Director of ACTION by the Domestic Volunteer Service Act of 1973 (42 U.S.C., Section 4951 *et seq.*), Reorganization Plan No. 1 of 1971, and Section 1–401 of this Order, the Director of ACTION shall:

(a) Encourage local, national and international voluntary activities directed toward the solution or mitigation of community problems.

(b) Provide for the development and operation of a clearinghouse for information on Government programs designed to foster voluntary action.

(c) Initiate proposals for the greater and more effective application of voluntary action in connection with Federal programs, and coordinate, as consistent with law, Federal activities involving such action.

(d) Make grants of seed money, as authorized by law, for stimulating the development or deployment of innovative voluntary action programs directed toward community problems.

1–602. The head of each Federal department and agency, or a designated representative, when so requested by the Director of ACTION or the Director of the Peace Corps, shall, to the extent permitted by law and funds available, furnish information and assistance, and participate in all ways appropriate to carry out the objectives of this Order, the Domestic Volunteer Service Act of 1973 and Reorganization Plan No. 1 of 1971.

1–603. The head of each Federal department agency shall, when so requested by the Director of ACTION, designate a senior official to have primary and continuing responsibility for the participation and cooperation of that department or agency in matters concerning voluntary action.

1–604. The head of each Federal department or agency, or a designated representative, shall keep the Director of ACTION informed of proposed budgets, plans, and programs of that department or agency affecting voluntary action programs.

1–605. Under the direction of the President and subject to the responsibilities of the Secretary of State, the Director of ACTION shall be responsible for the general direction of those ACTION functions, which jointly serve ACTION domestic volunteer components and the Peace Corps, and for advising the Director of the Peace Corps to ensure that the functions delegated under this Order to the Director of the Peace Corps are carried out.

1–7. General Provisions.

1–701. Except to the extent that they may be inconsistent with this Order, all determinations, authorizations, regulations, rulings, certifications, orders, directives, contracts, agreements and other actions made, issued or entered into with respect to any function affected by this Order and not revoked, superseded, or otherwise made inapplicable before the effective date of this Order shall continue in full force and effect until amended, modified, or terminated by appropriate authority.

1–702. Except as otherwise expressly provided herein, nothing in this Order shall be construed as subjecting any department, establishment, or other instrumentality of the Executive Branch of the Federal Government or the head thereof, or any function vested by law in or assigned pursuant to law to any such agency or head, to the authority of any other agency or head or as abrogating, modifying, or restricting any such function in any manner.

1–703. So much of the personnel, property, records, and unexpended balances or appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the functions assigned to the Director of the Peace Corps or to the Director of ACTION by this Order as the Director of the Office of Management and Budget shall determine, shall be transferred to the Director of the Peace Corps or the Director of ACTION at such time or times as the Director of the Office of Management and Budget shall direct.

1–704. To the extent permitted by law, such further measures and dispositions as the Director of the Office of Management and Budget shall deem to be necessary in order to effectuate the provisions of this Order shall be carried out by such agencies as the Director of the Office of Management and Budget shall specify.

1–705. The authority conferred by Sections 1–703 and 1–704 of this Order shall supplement, not limit, the provisions of Section 1–108 of this Order.

1–706. Executive Order Nos. 11041, 11250, 11470 and 11603 are hereby superseded.

1–707. This Order shall become effective May 16, 1979.

9. Providing for the Appointment of Former Peace Corps Volunteers to the Civilian Career Service

Executive Order 11103, April 10, 1963, 28 F.R. 3571, 22 U.S.C. 2504 note; amended by Executive Order 12107, December 28, 1978, 44 F.R. 1055

By virtue of the authority vested in me by the Civil Service Act (22 Stat. 403), and section 1753 of the Revised Statutes, and as President of the United States, it is hereby ordered as follows:

Sec. 1. Under such regulations as the Office of Personnel Management[1] may prescribe, the head of any agency in the Executive Branch may appoint in the competitive service any person who is certified by the Director of the Peace Corps as having served satisfactorily as a Volunteer or Volunteer Leader under the Peace Corps Act and who passes such examination as the Office of Personnel Management[1] may prescribe. Any person so appointed shall, upon completion of the prescribed probationary period, acquire a competitive status.

Sec. 2. The head of any agency in the Executive Branch having an established merit system in the excepted service may appoint in such service any person who is certified by the Director of the Peace Corps as having served satisfactorily as a Volunteer or Volunteer Leader under the Peace Corps Act and who passes such examination as such agency head may prescribe.

Sec. 3. Certificates of satisfactory service for the purpose of this Order shall be issued only to persons who have completed a full term of service (approximately two years) under the Peace Corps Act: *Provided,* That such certificates may be issued to persons who have completed a lesser period of satisfactory service if, in the judgment of the Director of the Peace Corps, (1) their service was of sufficient duration to demonstrate their capability to complete satisfactorily a full term, and (2) their failure to complete a full term was due to circumstances beyond their control.

Sec. 4. Any appointment under this Order shall be effected within a period of one year after completion of the appointee's service under the Peace Corps Act: *Provided,* That such period may be extended to not more than three years in the case of persons who, following such service, are engaged in military service, in the pursuit of studies at a recognized institution of higher learning, or in other activities which, in the view of the appointing authority, warrant an extension of such period.

Sec. 5. Any law, Executive Order, or regulation which would disqualify an applicant for appointment in the competitive service or in the excepted service concerned shall also disqualify an applicant for appointment under this Order.

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[1] Executive Order 12107 (44 F.R. 1055) struck out "Civil Service Commission" and inserted in lieu thereof "Office of Personnel Management".

Appendix I

NOTE.—Appendix I lists Public Laws included in *Legislation on Foreign Relations Through 2004*, either as free-standing law or in amendments, arranged by Public Law number with corresponding short title or popular name.

Public Law No.	Short Title
108–497	Comprehensive Peace in Sudan Act of 2004
108–484	Microenterprise Results and Accountability Act of 2004
108–458	Intelligence Reform and Terrorism Prevention Act of 2004
108–458	Afghanistan Freedom Support Act Amendments of 2004 (sec. 7104)
108–447	Consolidated Appropriations Act, 2005
108–447	Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2005 (division A)
108–447	Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2005 (division B)
108–447	Department of State and Related Agency Appropriations Act, 2005 (division B, title IV)
108–447	Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D)
108–447	Department of the Interior and Related Agencies Appropriations Act, 2005 (division E)
108–447	Migratory Bird Treaty Reform Act of 2004 (division E, sec. 143)
108–447	Miscellaneous Appropriations and Offsets Act, 2005 (division J, title I)
108–429	Miscellaneous Trade and Technical Corrections Act of 2004
108–375	Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005
108–370	Prevention of Child Abduction Partnership Act
108–347	Belarus Democracy Act of 2004
108–333	North Korean Human Rights Act of 2004
108–332	Global Anti-Semitism Review Act of 2004
108–323	Tropical Forest Conservation Act Reauthorization

108–309	Continuing Appropriations, 2005
108–302	United States-Morocco Free Trade Agreement Implementation Act
108–297	Cape Town Treaty Implementation Act of 2004
108–287	Department of Defense Appropriations Act, 2005
108–286	United States-Australia Free Trade Agreement Implementation Act
108–283	Northern Uganda Crisis Response Act
108–274	AGOA Acceleration Act of 2004
108–272	Approving the Renewal of Import Restrictions—Burma
108–266	Marine Turtle Conservation Act of 2004
108–235	Taiwan's Participation in the World Health Organization
108–215	Amendments to U.S.-Mexico Agreement Establishing a Border Environment Cooperation Commission and North American Development Bank
108–200	Congo Basin Forest Partnership Act of 2004
108–199	Consolidated Appropriations, 2004
108–199	Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2004 (division D)
108–199	HELP Commission Act (division B, sec. 637)
108–199	Millennium Challenge Act of 2003 (division D, title VI)
108–175	Syria Accountability and Lebanese Sovereignty Restoration Act of 2003
108–136	National Defense Authorization Act For Fiscal Year 2004
108–136	Nuclear Security Initiative Act of 2003 (title XXXVI)
108–106	Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004
108–77	United States-Chile Free Trade Agreement Implementation Act
108–31	Microenterprise Report to Congress
108–28	Taiwan's Participation in the World Health Organization
108–25	United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003
108–19	Clean Diamond Trade Act
108–11	Emergency Wartime Supplemental Appropriations Act, 2003
108–7	Consolidated Appropriations, 2003
107–365	Caribbean National Forest Wild and Scenic Rivers Act of 2002
107–327	Afghanistan Freedom Support Act of 2002
107–314	Bob Stump National Defense Authorization Act for Fiscal Year 2003
107–314	Atomic Energy Defense Act (division D)
107–258	Persian Gulf POW/MIA Accountability Act of 2002
107–246	Russian Democracy Act of 2002
107–245	Sudan Peace Act
107–243	Authorization for Use of Military Force Against Iraq Resolution of 2002

107–228	Foreign Relations Authorization Act, Fiscal Year 2003
107–228	Department of State Authorization Act, Fiscal Year 2003 (division A)
107–228	Security Assistance Act of 2002 (division B)
107–228	Middle East Peace Commitments Act of 2002 (division A, title VI, subtitle A)
107–228	Tibetan Policy Act of 2002 (division A, title VI, subtitle B)
107–228	East Timor Transition to Independence Act of 2002 (division A, title VI, subtitle C)
107–228	Clean Water for the Americas Partnership Act of 2002 (division A, title VI, subtitle D)
107–228	Freedom Investment Act of 2002 (division A, title VI, subtitle E)
107–228	Russian Federation Debt for Nonproliferation Act of 2002 (division B, title XIII, subtitle B)
107–228	Nonproliferation Assistance Coordination Act of 2002 (division B, title XIII, subtitle C)
107–228	Iran Nuclear Proliferation Prevention Act of 2002 (division B, title XIII, subtitle D)
107–210	Trade Act of 2002
107–210	Andean Trade Promotion and Drug Eradication Act (title XXXI)
107–206	2002 Supplemental Appropriations Act for Further Recovery From and Response to Terrorist Attacks on the United States
107–206	American Servicemembers Protection Act (title II)
107–197	Terrorist Bombings Convention Implementation Act of 2002
107–189	Export-Import Bank Reauthorization Act of 2002
107–187	Gerald B. H. Solomon Freedom Consolidation Act of 2002
107–173	Ehanced Border Security and Visa Entry Reform Act of 2002
107–171	Farm Security and Rural Investment Act of 2002
107–171	Congressional Hunger Fellows Act of 2002 (sec. 4404)
107–148	Radio Free Afghanistan Act
107–141	Asian Elephant Conservation Reauthorization Act of 2002
107–117	Department of Defense and Emergency Supplemental Appropriations for Recovery From and Response To Terrorist Attacks on the United States Act, 2002
107–115	Kenneth M. Ludden Foreign Operations, Export Financing and Related Programs Appropriations Act, 2002
107–112	Rhinoceros and Tiger Conservation Reauthorization Act of 2001
107–111	African Elephant Conservation Reauthorization Act of 2001
107–107	National Defense Authorization Act for Fiscal Year 2002
107–99	Zimbabwe Democracy and Economic Recovery Act of 2001
107–81	Afghan Women and Children Relief Act of 2001

107–56	Uniting and Strengthening America By Providing Appropriate Tools Required To Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001
107–56	International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001 (title III)
107–43	United States-Jordan Free Trade Area Implementation Act
107–40	Authorization for Use of Military Force [international terrorism]
107–39	Condemnation of Terrorist Attacks
107–24	ILSA [Iran and Libya Sanctions Act] Extension Act of 2001
106–570	Assistance for International Malaria Control Act
106–570	International Malaria Control Act (title I)
106–570	United States-Macau Policy Act of 2000 (title II)
106–570	Pacific Charter Commission Act of 2000 (title IV)
106–570	Paul D. Coverdell World Wise Schools Act of 2000 (title VI)
106–567	Intelligence Authorization Act for Fiscal Year 2001
106–567	Japanese Imperial Government Disclosure Act of 2000 (title VIII)
106–557	Shark Finning Prohibition Act
106–555	Striped Bass Conservation, Atlantic Coastal Fisheries Management and Marine Mammal Rescue Assistance Act of 2000
106–554	Consolidated Appropriations Act, 2001
106–554	Vietnam Education Foundation Act of 2000 (title II)
106–553	Department of State and Related Agency Appropriations Act, 2001
106–531	Reports Consolidation Act of 2000
106–484	Bring Them Home Alive Act of 2000
106–476	Tariff Suspension and Trade Act of 2000
106–450	Yukon River Salmon Act of 2000
106–429	Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001
106–411	Great Ape Conservation Act of 2000
106–398	Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001
106–387	Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001
106–387	Trade Sanctions Reform and Export Enhancement Act of 2000 (title IX)
106–386	Victims of Trafficking and Violence Protection Act of 2000
106–386	Trafficking Victims Protection Act of 2000 (division A)
106–373	Famine Prevention and Freedom From Hunger Improvement Act of 2000
106–346	National Terrorist Asset Trading Center
106–309	Microenterprise for Self-Reliance and International Anti-Corruption Act of 2000
106–309	Microenterprise for Self-Reliance Act of 2000 (title I)
106–309	International Anti-Corrpution and Good Governance Act of 2000 (title II)

106–309	International Academic Opportunities Act of 2000 (title III)
106–309	Support for Overseas Cooperative Development Act (sec. 401)
106–309	Paul D. Coverdell Fellows Program Act of 2000 (sec. 408)
106–286	U.S.-China Relations Act of 2000
106–280	Security Assistance Act of 2000
106–279	Intercountry Adoption Act of 2000
106–264	Global AIDS and Tuberculosis Relief Act of 2000
106–264	Global AIDS Research and Relief Act of 2000 (title I)
106–264	International Tuberculosis Control Act of 2000 (title II)
106–256	Oceans Act of 2000
106–247	Neotropical Migratory Bird Conservation Act
106–212	American Institute in Taiwan Facilities Enhancement Act
106–200	Trade and Development Act of 2000
106–200	African Growth and Opportunity Act (title I)
106–200	U.S.-Caribbean Basin Trade Partnership Act (title II)
106–178	Iran Nonproliferation Act of 2000
106–158	Export Enhancement Act of 1999
106–120	Intelligence Authorization Act for Fiscal Year 2000
106–120	Foreign Narcotics Kingpin Designation Act (title VIII)
106–113	Consolidated Appropriations, Fiscal Year 2000
106–113	Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (H.R. 3422, enacted by reference)
106–113	Silk Road Strategy Act of 1999 (sec. 596, H.R. 3422, enacted by reference)
106–113	Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference)
106–113	Secure Embassy Construction and Counterterrorism Act of 1999 (title VI, division A, H.R. 3427, enacted by reference)
106–113	North Korea Threat Reduction Act of 1999 (subtitle B, title VIII, division A, H.R. 3427, enacted by reference)
106–113	United Nations Reform Act of 1999 (title IX, division A, H.R. 3427, enacted by reference)
106–113	Arms Control, Nonproliferation, and Security Assistance Act of 1999 (division B, H.R. 3427, enacted by reference)
106–113	Arms Control and Nonproliferation Act of 1999 (title XI, division B, H.R. 3427, enacted by reference)
106–113	National Security and Corporate Fairness under the Biological Weapons Convention Act (chapter 2, subtitle A, title XI, division B, H.R. 3427, enacted by reference)
106–113	Security Assistance Act of 1999 (title XII, H.R. 3427, enacted by reference)
106–113	Defense Offsets Disclosure Act of 1999 (subtitle D, title XII, H.R. 3427, enacted by reference)

106–113	Proliferation Prevention Enhancement Act of 1999 (subtitle E, title XII, H.R. 3427, enacted by reference)
106–113	International Arms Sales Code of Conduct Act of 1999 (subtitle F, title XII, H.R. 3427, enacted by reference)
106–108	Arctic Tundra Habitat Emergency Conservation Act
106–87	Torture Victims Relief Reauthorization Act of 1999
106–79	Department of Defense Appropriations Act, 2000
106–65	National Defense Authorization Act for Fiscal Year 2000
106–65	Panama Canal Commission Authorization Act for Fiscal Year 2000 (title XXXV)
106–38	National Missile Defense Act of 1999
106–36	Miscellaneous Trade and Technical Corrections Act of 1999
106–35	Western Hemisphere Drug Elimination Technical Corrections Act
106–30	Peace Corps Reauthorization
105–385	Africa: Seeds of Hope Act of 1998
105–384	Governing International Fisheries Agreement with Poland
105–382	Department of State Special Agents Retirement Act of 1998
105–366	International Anti-Bribery and Fair Competition Act of 1998
105–362	Federal Reports Elimination Act of 1998
105–338	Iraq Liberation Act of 1998
105–323	Extradition Treaties Interpretation Act of 1998
105–319	Irish Peace Process Cultural and Training Program Act of 1998
105–312	Rhinoceros and Tiger Conservation Act of 1998
105–303	Commercial Space Act of 1998
105–292	International Religious Freedom Act of 1998
105–277	Omnibus Consolidated and Emergency Supplemental Appropriations Act for Fiscal Year 1999
105–277	Haitian Refugee Immigration Fairness Act of 1998 (division A, sec. 101(h), title IX)
105–277	Trade Deficit Review Commission Act (division A, sec. 127)
105–277	Office of National Drug Control Policy Reauthorization Act of 1998 (division C, title VII)
105–277	Western Hemisphere Drug Elimination Act (division C, title VIII)
105–277	Foreign Affairs Reform and Restructuring Act of 1998 (division G)
105–277	Foreign Affairs Agencies Consolidation Act of 1998 (division G, subdivision A)
105–277	Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (division G, subdivision B)
105–277	United Nations Reform Act of 1998 (division G, subdivision C)
105–277	European Security Act of 1998 (division G, title XXVII)

105–277	Chemical Weapons Convention Implementation Act of 1998 (division I)
105–262	Department of Defense Appropriations Act, 1999
105–261	Strom Thurmond National Defense Authorization Act for Fiscal Year 1999
105–261	Defense Against Weapons of Mass Destruction Act of 1998 (title XIV)
105–261	Panama Canal Commission Authorization Act for Fiscal Year 1999 (title XXXV)
105–261	Radio Free Asia Act of 1998 (title XXXIX)
105–246	Nazi War Crimes Disclosure Act
105–235	Finding the Government of Iraq in Unacceptable and Material Breach of Its International Obligations
105–217	African Elephant Conservation Reauthorization Act of 1998
105–194	Agriculture Export Relief Act of 1998
105–186	U.S. Holocaust Assets Commission Act of 1998
105–174	1998 Supplemental Appropriations and Rescissions Act
105–173	International Parental Kidnapping Crime Act
105–158	Holocaust Victims Redress Act
105–119	Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998
105–107	Intelligence Authorization Act for Fiscal Year 1998
105–100	Nicaraguan Adjustment and Central American Relief Act (title II)
105–96	Asian Elephant Conservation Act of 1997
105–85	National Defense Authorization Act for Fiscal Year 1998
105–42	International Dolphin Conservation Program Act
104–319	Human Rights, Refugee, and Other Foreign Relations Provisions Act of 1996
104–309	Records Relating to Nazi War Crimes
104–297	Sustainable Fisheries Act
104–293	Intelligence Authorization Act for Fiscal Year 1997
104–293	Combatting Proliferation of Weapons of Mass Destruction Act of 1996 (title VII)
104–269	Release of USIA Materials: VOA, Radio Marti Recordings
104–264	Federal Aviation Reauthorization Act of 1996
104–227	Antarctic Science, Tourism, and Conservation Act of 1996
104–208	Omnibus Consolidated Appropriations for Fiscal Year 1997
104–208	Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (title I, sec. 101(c))
104–203	Most-Favored-Nation Treatment for Cambodia
104–201	National Defense Authorization Act for Fiscal Year 1997
104–201	Defense Against Weapons of Mass Destruction Act of 1996 (title XIV)

104–201	Panama Canal Commission Authorization Act for Fiscal Year 1997 (title XXXV, subtitle A)
104–201	Panama Canal Act Amendments of 1996 (title XXXV, subtitle B)
104–172	Iran and Libya Sanctions Act of 1996
104–171	Most-Favored-Nation Treatment for Romania
104–164	Miscellaneous Amendments and Authorization—FYs 1996 and 1997
104–162	Most-Favored-Nation Treatment for People's Republic of Bulgaria
104–161	Release of USIA Materials: "Fragile Ring of Life"
104–132	Antiterrorism and Effective Death Penalty Act of 1996
104–127	Federal Agriculture Improvement and Reform Act of 1996
104–114	Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996
104–106	National Defense Authorization Act for Fiscal Year 1996
104–106	Ballistic Missile Defense Act of 1995 (title II, subtitle C)
104–93	Intelligence Authorization Act for Fiscal Year 1996
104–72	Au Pair Extension
104–66	Federal Reports Elimination and Sunset Act of 1995
104–45	Jerusalem Embassy Act of 1995
104–43	Fisheries Act of 1995
104–43	High Seas Fishing Compliance Act of 1995 (title I)
104–43	Northwest Atlantic Fisheries Convention Act of 1995 (title II)
104–43	Atlantic Tunas Convention Act of 1995 (title III)
104–43	Sea of Okhotsk Fisheries Enforcement Act of 1995 (title V)
104–43	High Seas Driftnet Fishing Moratorium Protection Act (title VI)
104–43	Yukon River Salmon Act of 1995 (title VII) Act for Fiscal Year 1997
104–6	Emergency Supplemental Appropriations and Rescissions for the Department of Defense to Preserve and Enhance Military Readiness Act of 1995
104–6	Mexican Debt Disclosure Act of 1995 (title IV)
103–465	Uruguay Rounds Agreements Act
103–465	Export Enhancement Program Amendments of 1994 (title IV, subtitle A, part II, sec. 411(a))
103–447	International Narcotics Control Corrections Act of 1994
103–447	NATO Participation Act of 1994 (title II)
103–423	United States Policy Toward Haiti
103–416	Visa for Officials of Taiwan
103–392	Jobs Through Trade Expansion Act of 1994
103–391	Rhinoceros and Tiger Conservation Act of 1994
103–381	African Conflict Resolution Act
103–372	To Provide for an Investigation of the Whereabouts of U.S. Citizens Missing From Cyprus Since 1974
103–337	National Defense Authorization Act for Fiscal Year 1995

103–306	Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995
103–294	Helsinki Human Rights Day
103–236	Foreign Relations Authorization Act, Fiscal Years 1994 and 1995
103–236	Mike Mansfield Fellowship Act (title II, part C)
103–236	United States International Broadcasting Act of 1994 (title III)
103–236	Spoils of War Act of 1994 (title V, part B)
103–236	Anti-Economic Discrimination Act of 1994 (title V, part C)
103–236	Cambodian Genocide Justice Act (title V, part D)
103–236	Middle East Peace Facilitation Act of 1994 (title V, part E)
103–236	Arms Control and Nonproliferation Act of 1994 (title VII, part A)
103–236	Nuclear Proliferation Prevention Act of 1994 (title VIII)
103–236	Protection and Reduction of Government Secrecy Act (title IX)
103–206	Coast Guard Authorization Act of 1993
103–199	Act For Reform in Emerging New Democracies and Support and Help for Improved Partnership with Russia, Ukraine, and Other New Independent States (FRIENDSHIP Act)
103–182	North American Free Trade Agreement Implementation Act
103–160	National Defense Authorization Act for Fiscal Year 1994
103–160	Cooperative Threat Reduction Act of 1993 (title XII)
103–160	Defense Conversion, Reinvestment, and Transition Assistance Amendments of 1993 (title XIII)
103–160	National Shipbuilding and Shipyard Conversion Act of 1993 (title XIII, subtitle D)
103–160	Panama Canal Commission Authorization Act for Fiscal Year 1994 (title XXXV)
103–158	Act to Honor the Victims of the Bombing of Panam Flight 103
103–149	South African Democratic Transition Support Act of 1993
103–133	Nondiscriminatory Treatment Toward Products of Romania
103–125	Middle East Peace Facilitation Act of 1993
102–588	National Aeronautics and Space Administration Authorization Act, Fiscal Year 1993
102–587	Oceans Act of 1992
102–587	North Pacific Anadromous Stocks Convention Act of 1992 (title VIII)
102–582	High Seas Driftnet Fisheries Enforcement Act
102–582	Central Bering Sea Fisheries Enforcement Act of 1992 (title III)
102–567	North Pacific Anadromous Stocks Act of 1992 (title VIII)
102–565	Peace Corps Authorization for Fiscal Year 1993

102–549	Jobs Through Exports Act of 1992
102–549	Aid, Trade, and Competitiveness Act of 1992 (title III)
102–549	Enterprise for the Americas Act of 1992 (title VI)
102–532	Enterprise for the Americas Initiative Act of 1992
102–523	International Dolphin Conservation Act of 1992
102–511	Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 (FREEDOM Support Act)
102–509	Soviet Scientists Immigration Act of 1992
102–486	Energy Policy Act of 1992
102–484	National Defense Authorization Act for Fiscal Year 1993
102–484	Former Soviet Union Demilitarization Act of 1992 (title XIV)
102–484	Weapons of Mass Destruction Control Act of 1992 (title XV)
102–484	Iran-Iraq Arms Non-Proliferation Act of 1992 (title XVI)
102–484	Cuban Democracy Act of 1992 (title XVII)
102–484	Panama Canal Commission Authorization Act for Fiscal Year 1993 (title XXXV)
102–454	Distribution of USIA Materials
102–450	Asian/Pacific American Heritage Month—Designation
102–429	Export Enhancement Act of 1992
102–420	Withdrawal of MFN From Serbia and Montenegro
102–404	Chinese Student Protection Act of 1992
102–396	Department of Defense Appropriations Act, 1993
102–391	Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993
102–383	United States-Hong Kong Policy Act of 1992
102–372	Tourism Policy and Export Promotion Act of 1992
102–363	Nondiscriminatory Treatment Toward Products of Albania
102–311	International Peacekeeping Act of 1992
102–274	Horn of Africa Recovery and Food Security Act
102–270	Peace Process in Liberia
102–256	Torture Victim Protection Act of 1991
102–247	Omnibus Insular Areas Act of 1992
102–237	Food, Agriculture, Conservation, and Trade Act Amendments of 1991
102–228	Conventional Forces in Europe Treaty Implementation Act of 1991
102–228	Soviet Nuclear Threat Reduction Act of 1991 (title II)
102–197	Most-Favored Nation Treatment for the Union of Soviet Socialist Republics
102–195	National Aeronautics and Space Administration Authorization Act, Fiscal Year 1992
102–190	National Defense Authorization Act for Fiscal Years 1992 and 1993
102–190	Missile Defense Act of 1991 (title II, part C)
102–190	Panama Canal Commission Authorization Act for Fiscal Year 1992 (title XXXV)
102–183	David L. Boren National Security Education Act of 1991 (title VIII)

102–182	Termination of Trade Restrictions to Czechoslovakia and Hungary
102–182	Andean Trade Preference Act (title II)
102–182	Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (title III)
102–158	Most-Favored Nation Treatment for People's Republic of Bulgaria
102–157	Most-Favored Nation Treatment for Mongolian People's Republic
102–138	Foreign Relations Authorization Act, Fiscal Years 1992 and 1993
102–138	Dante B. Fascell North-South Center Act of 1991 (sec. 208)
102–21	Emergency Supplemental Assistance for Israel Act of 1991
102–20	Foreign Relations Persian Gulf Conflict Emergency Supplemental Authorization Act, Fiscal Year 1991
102–1	Authorization for Use of U.S. Armed Forces Pursuant to U.N. Security Council Resolution 678
101–649	Immigration Act of 1990
101–647	Crime Control Act of 1990
101–646	Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990
101–627	Fishery Conservation Amendments of 1990
101–627	Dolphin Protection Consumer Information Act (title IX)
101–624	Food, Agriculture, Conservation, and Trade Act of 1990
101–624	Agricultural Development and Trade Act of 1990 (title XV)
101–624	Global Climate Change Prevention Act of 1990 (title XXIV)
101–623	International Narcotics Control Act of 1990
101–620	Protection of Antarctica
101–611	National Aeronautics and Space Administration Authorization Act, Fiscal Year 1991
101–610	National and Community Service Act of 1990
101–606	Global Change Research Act of 1990
101–606	International Cooperation in Global Change Research Act of 1990 (title II)
101–604	Aviation Security Improvement Act of 1990
101–594	Antarctic Protection Act of 1990
101–549	Clean Air Act Amendments
101–541	Most-Favored-Nation Treatment for Czechoslovakia
101–533	Foreign Direct Investment and International Financial Date Improvements Act of 1990
101–513	Foreign Operations, Export Financing, and Related Programs Appropriations Act 1991
101–513	European Bank for Reconstruction and Development Act (sec. 562(c))
101–513	Iraq Sanctions Act of 1990 (secs. 586–586J)
101–513	International Forestry Cooperation Act of 1990 (title VI)
101–511	Department of Defense Appropriations Act, 1991

101–510	National Defense Authorization Act for Fiscal Year 1991
101–510	Panama Canal Commission Authorization Act for Fiscal Year 1991 (title XXXV)
101–454	Eisenhower Exchange Fellowship Act of 1990
101–454	Fascell Fellowship Amendments Act of 1990 (sec. 9)
101–438	Rio Grande American Canal Extension Act of 1990
101–382	Customs and Trade Act of 1990
101–382	Caribbean Basin Economic Recovery Expansion Act of 1990 (title II)
101–382	Forest Resources Conservation and Shortage Relief Act of 1990 (title IV)
101–380	Oil Pollution Act of 1990
101–328	National Space Council Authorization Act of 1990
101–298	Biological Weapons Anti-Terrorism Act of 1989
101–246	Foreign Relations Authorization Act, Fiscal Years 1990 and 1991
101–246	PLO Commitments Compliance Act of 1989 (title VIII)
101–243	Urgent Assistance for Democracy in Panama Act of 1990
101–240	International Development and Finance Act of 1989
101–240	Foreign Debt Reserving Act of 1989 (title IV)
101–240	Global Environmental Protection Assistance Act of 1989 (title VII)
101–231	International Narcotics Control Act of 1989
101–219	Implementation of Compact of Free Association With Palau
101–216	Arms Control and Disarmament Amendments Act of 1989
101–215	Survival Assistance for Victims of Civil Strife in Central America
101–189	National Defense Authorization Act for Fiscal Years 1990 and 1991
101–179	Support for East European Democracy (SEED) Act of 1989
101–167	Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990
101–162	Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990
101–62	Implementing Agreement for Vienna Convention on Diplomatic Relations
100–690	International Narcotics Control Act of 1988 (title IV)
100–685	National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989
100–629	U.S.-U.S.S.R. Fishing Agreement
100–576	Bangladesh Disaster Assistance Act of 1988
100–530	International Cooperation to Protect Biological Diversity
100–478	African Elephant Conservation Act (title II)
100–465	Rio Grande Pollution Correction Act of 1987
100–463	Department of Defense Appropriations Act, 1989
100–461	Overseas Private Investment Corporation Amendments Act of 1988 (H.R. 5263, enacted by reference)

100–461	Miscellaneous International Affairs Authorization Act of 1988 (S. 2757, enacted by reference)
100–460	Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989
100–456	National Defense Authorization Act, Fiscal Year 1989
100–449	United States-Canada Free Trade Agreement Implementation Act of 1988
100–418	Omnibus Trade and Competitiveness Act of 1988
100–418	Telecommunications Trade Act of 1988 (title I, subtitle C, part 4)
100–418	Export Enhancement Act 1988 (title II)
100–418	Fair Trade in Auto Parts Act of 1988 (title II, subtitle A, part II)
100–418	American Aid to Poland Act of 1988 (title II, subtitle B, part II)
100–418	Multilateral Export Control Enhancement Amendments Act (title II, subtitle D, part II)
100–418	Exchange Rates and International Economic Policy Coordination Act of 1988 (title III, subtitle A)
100–418	International Debt Management Act of 1988 (title III, subtitle B)
100–418	Multilateral Development Banks Procurement Act (title III, subtitle C)
100–418	Export-Import Bank and Tied Aid Credit Amendments of 1988 (title III, subtitle D)
100–418	Primary Dealers Act of 1988 (title III, subtitle F)
100–418	Financial Reports Act of 1988 (title III, subtitle G)
100–418	Agricultural Competitiveness and Trade Act of 1988 (title IV)
100–418	Pesticide Monitoring Improvements Act of 1988 (title IV, subtitle G)
100–418	Foreign Corrupt Practices Act Amendments of 1988 (title V, subtitle A, part I)
100–418	Competitiveness Policy Council Act (title V, part I, subtitle C)
100–418	Small Business International Trade and Competitiveness Act (title VII)
100–418	Foreign Shipping Practices Act of 1988 (title X)
100–393	Dire Emergency Supplemental Appropriations Act, 1988
100–373	International Energy Emergency Authorities: Extension
100–350	German Democratic Republic Fishery Agreement
100–330	South Pacific Tuna Act of 1988
100–300	International Child Abduction Remedies Act
100–276	Central American Peace Assistance
100–220	United States-Japan Fishery Agreement Approval Act of 1987
100–220	Driftnet Impact Monitoring, Assessment, and Control Act of 1987 (title IV)
100–213	Arms Control and Disarmament Amendments Act of 1987
100–204	Foreign Relations Authorization Act, Fiscal Years 1988 and 1989

100–204	United States Information Agency Authorization Act, Fiscal Years 1988 and 1989 (title II)
100–204	Board for International Broadcasting Authorization Act, Fiscal Years 1988 and 1989 (title V)
100–204	Anti-Terrorism Act of 1987 (title X)
100–204	Global Climate Protection Act of 1987 (title XI)
100–202	Continuing Appropriations, Fiscal Year 1988
100–202	Cuban Political Prisoners and Immigrants (sec. 101(a), title VII)
100–202	Indochinese Refugee and Resettlement Act of 1987 (sec. 101(a), title VIII)
100–202	Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (sec. 101(e))
100–202	Multilateral Investment Guarantee Agency Act (sec. 101(e), H.R. 3570, enacted by reference, title IV)
100–180	National Defense Authorization Act for Fiscal Years 1988 and 1989
100–147	National Aeronautics and Space Administration Authorization Act of 1988
100–113	Federal Triangle Development Act
100–66	United States-Korea Fishery Agreement
99–661	National Defense Authorization Act, Fiscal Year 1987
99–661	Department of Defense Authorization Act, 1987 (Division A)
99–658	Approval of the Compact of Free Association With the Government of Palau
99–630	Humpback Whales Wildlife Sanctuary (West Indies)
99–603	Immigration Reform and Control Act of 1986
99–570	International Narcotics Control Act of 1986 (title II)
99–529	Special Foreign Assistance Act of 1986
99–513	R.M.S. Titanic Maritime Memorial Act of 1986
99–498	Higher Education Amendments of 1986
99–475	Release of USIA Materials to Museums
99–472	Export-Import Bank Act Amendments of 1986
99–415	Anglo-Irish Agreement Support Act of 1986
99–399	Omnibus Diplomatic Security and Antiterrorism Act of 1986
99–399	Diplomatic Security Act (titles I–IV)
99–399	Victims of Terrorism Compensation Act (title VIII)
99–399	International Maritime and Port Security Act (title IX)
99–399	Fascell Fellowship Act (title X)
99–239	Compact of Free Association Act of 1985
99–198	Food Security Act of 1985
99–198	Food for Progress Act of 1985 (sec. 1110)
99–190	Further Continuing Appropriations, 1985
99–190	Multilateral Development Bank Act of 1985 (sec. 101(i), H.R. 2253, enacted by reference)
99–180	Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1986
99–177	Balanced Budget and Emergency Deficit Control Act of 1985 [Gramm-Rudman-Hollings Act]
99–162	Sales of Arms to Jordan

99–145	Department of Defense Authorization Act, 1986
99–93	Foreign Relations Authorization Act, Fiscal Years 1986 and 1987
99–93	United States Information Agency Authorization Act, Fiscal Years 1986 and 1987 (title II)
99–93	Board for International Broadcasting Authorization Act, Fiscal Years 1986 and 1987 (title III)
99–93	Iran Claims Settlement (title V)
99–93	United States Scholarship Program for Developing Countries Authorization, Fiscal Years 1986 & 1987 (title VI)
99–93	Arms Control and Disarmament Act Authorization for Fiscal Years 1986 and 1987 (title VII)
99–88	Supplemental Appropriations Act, 1985
99–88	Jordan Supplemental Economic Assistance Authorization Act of 1985 (title IV)
99–85	Authorization for an Improved U.S./Soviet Direct Communications Link
99–83	International Security and Development Cooperation Act of 1985
99–83	International Narcotics Control Act of 1985 (title VI)
99–83	Peace Corps Authorization for Fiscal Years 1986 and 1987 (title XI)
99–64	Export Administration Amendments Act of 1985
99–47	United States-Israel Free Trade Area Implementation Act of 1985
99–8	African Famine Relief and Recovery Act of 1985
99–5	Pacific Salmon Treaty Act of 1985
98–623	Governing International Fishery Agreements With Iceland and the European Economic Community (title I)
98–623	Antarctic Marine Living Resources Convention Act of 1984 (title III)
98–618	Intelligence Authorization Act for Fiscal Year 1985
98–573	Trade and Tariff Act of 1984
98–573	International Trade and Investment Act (title III)
98–573	Generalized System of Preferences Renewal Act of 1984 (title V)
98–573	Steel Import Stabilization Act (title VIII)
98–573	Wine Equity and Export Expansion Act of 1984 (title IX)
98–562	Cooperative East-West Ventures in Space
98–533	1984 Act to Combat International Terrorism
98–525	Department of Defense Authorization Act, 1985
98–525	United States Institute for Peace Act (title XVII)
98–473	Continuing Appropriations, 1985
98–473	Inter-American Investment Corporation Act (title II, S. 2416, enacted by reference)
98–473	President's Emergency Food Assistance Act of 1984 (title III)
98–447	United States Government Opposition to the Practice of Torture
98–445	Eastern Pacific Tuna Licensing Act of 1984
98–373	Arctic Research and Policy Act of 1984 (title I)

98–373	National Critical Materials Act of 1984 (title II)
98–266	Clement J. Zablocki Memorial Outpatient Facility, American Children's Hospital, Krakow, Poland
98–258	Agricultural Programs Adjustment Act of 1984
98–258	Agricultural Exports (title V)
98–198	Child Health Revolution
98–181	Supplemental Appropriations Act, 1984
98–181	Trade and Development Enhancement Act of 1983 (title VI, part C)
98–181	International Lending Supervision Act of 1983 (title IX)
98–181	Multilateral Development Banks: Sense of Congress (title X)
98–164	Department of State Authorization Act, Fiscal Years 1984 and 1985 (titles I, X)
98–164	United States Information Agency Authorization Act, Fiscal Years 1984 and 1985 (title II)
98–164	Board for International Broadcasting Authorization Act, Fiscal Years 1984 and 1985 (title III)
98–164	Asia Foundation Act (title IV)
98–164	National Endowment for Democracy Act (title V)
98–164	Foreign Missions Amendments Act (title VI)
98–164	International Environmental Protection Act of 1983 (title VII)
98–164	Research and Training for Eastern Europe and the Independent States of the Former Soviet Union Act of 1983 (title VIII)
98–164	United States-India Fund for Cultural, Educational, and Scientific Cooperation Act (title IX)
98–151	Continuing Resolution, 1984
98–151	Foreign Assistance and Related Programs Appropriations Act, 1984 (sec. 101(b)(1))
98–151	International Security and Development Assistance Authorization Act of 1983 (sec. 101(b)(2))
98–119	Multinational Force in Lebanon Resolution
98–111	Radio Broadcasting to Cuba Act
98–94	Department of Defense Authorization Act, 1984
98–67	Caribbean Basin Economic Recovery Act (title II)
98–43	Lebanon Emergency Assistance Act of 1983
97–446	Convention on Cultural Property Implementation Act (title III)
97–425	Nuclear Waste Policy Act of 1982
97–418	Protection of Foreign Missions
97–389	Fisheries Amendments of 1982
97–389	Atlantic Salmon Convention Act of 1982 (title III)
97–389	Governing International Fishery Agreements with Japan and Spain (title IV)
97–325	International Carriage of Perishable Foodstuffs Act
97–290	Export Trading Company Act of 1982 (title I)
97–290	Bank Export Services Act (title II)
97–252	Department of Defense Authorization Act, 1983
97–241	Department of State Authorization Act, Fiscal Years 1982 and 1983
97–241	Foreign Missions Act (title II)

97–241	United States Information Agency Authorization Act, Fiscal Years 1982 and 1983 (title III)
97–241	Board for International Broadcasting Authorization Act, Fiscal Years 1982 and 1983 (title IV)
97–229	Energy Emergency Preparedness Act of 1982
97–145	Export Administration Amendments Act of 1981
97–132	Multinational Force and Observers Participation Resolution
97–127	Czechoslovakian Claims Settlement Act of 1981
97–113	International Security and Development Cooperation Act of 1981
97–98	Agriculture and Food Act of 1981
97–98	Agriculture Trade and Export Policy Commission Act (title XII, subtitle C)
97–35	African Development Bank Act (title XIII, subtitle B, part 3)
96–599	International Coffee Agreement Act of 1980
96–561	American Fisheries Promotion Act (title II)
96–533	International Security and Development Cooperation Act of 1980
96–533	African Development Foundation Act (title V)
96–494	Agriculture Act of 1980
96–494	Agricultural Trade Suspension Adjustment Act of 1980 (title II)
96–494	Bill Emerson Humanitarian Trust Act (title III)
96–487	Alaska National Interests Lands Conservation Act
96–478	Act to Prevent Pollution from Ships
96–465	Foreign Service Act of 1980
96–449	Hostage Relief Act of 1980
96–422	Refugee Education Assistance Act of 1980
96–389	Bretton Woods Agreements Act Amendments, 1980
96–339	Atlantic Tunas Convention Act of 1975, Appropriation Authorization
96–323	North Atlantic Treaty Organization Mutual Support Act of 1979
96–283	Deep Seabed Hard Mineral Resources Act
96–283	Deep Seabed Hard Mineral Removal Tax Act of 1979 (title IV)
96–280	Nuclear Non-Proliferation Act of 1978—Agreements for Cooperation
96–271	International Natural Rubber Agreement Appropriation Authorization for Fiscal Year 1981
96–259	Providing for Increased Participation by the United States in the Inter-American and Asian Development Banks and African Development Fund
96–236	International Sugar Agreement, 1977, Implementation
96–212	Refugee Act of 1980
96–175	Strategic and Critical Materials Transaction Authorization Act of 1979
96–133	Energy Policy and Conservation Act Amendments
96–92	International Security Assistance Act of 1979
96–72	Export Administration Act of 1979
96–70	Panama Canal Act of 1979

96–60	Department of State Authorization Act, Fiscal Years 1980 and 1981 (title I)
96–60	International Communication Agency Authorization Act, Fiscal Years 1980 and 1981 (title II)
96–53	International Development Cooperation Act of 1979
96–39	Trade Agreements Act of 1979
96–35	Special International Security Assistance Act of 1979
96–9	Reaffirming North Atlantic Alliance—United States Commitment
96–8	Taiwan Relations Act
95–630	Financial Institutions Regulatory and Interest Rate Control Act of 1978
95–630	Export-Import Bank Act Amendments of 1978 (title XIX)
95–561	Education Amendments of 1978
95–561	National Academy of Peace and Conflict Resolution (title XV, part B)
95–511	Foreign Intelligence Surveillance Act of 1978
95–501	Agricultural Trade Act of 1978
95–485	Department of Defense Appropriation Authorization Act, 1979
95–452	Inspector General Act of 1978
95–435	Bretton Woods Agreements Act Amendments, 1978
95–426	Foreign Relations Authorization Act, Fiscal Year 1979
95–426	International Communication Agency Authorization for Fiscal Year 1979 (title II)
95–424	International Development and Food Assistance Act of 1978
95–393	Diplomatic Relations Act
95–384	International Security Assistance Act of 1978
95–287	Reaffirming the Unity of the North Atlantic Alliance Commitment
95–242	Nuclear Non-Proliferation Act of 1978
95–238	Department of Energy Act of 1978
95–223	International Emergency Economic Powers Act (title II)
95–213	Foreign Corrupt Practices Act of 1977 (title I)
95–118	International Financial Institutions Act
95–113	Food and Agriculture Act of 1977
95–105	Foreign Relations Authorization Act, Fiscal Year 1978
95–105	United States Information Agency Authorization for Fiscal Year 1978 (title II)
95–92	International Security Assistance Act of 1977
95–88	International Development and Food Assistance Act of 1977
95–6	Fishery Conservation Zone Transition Act
94–583	Foreign Sovereign Immunities Act of 1976
94–472	International Investment and Trade in Services Survey Act
94–412	National Emergencies Act
94–350	Foreign Relations Authorization Act, Fiscal Year 1977
94–350	United States Information Agency Authorization for Fiscal Year 1977 (title II)

94–350	Foreign Service Retirement Amendments of 1976 (title V)
94–329	International Security Assistance and Arms Export Control Act of 1976
94–304	Establishing a Commission on Security and Cooperation in Europe
94–302	African Development Fund Act (title II)
94–265	Magnuson-Stevens Fishery Conservation and Management Act of 1976
94–265	Driftnet Act Amendments of 1990 (sec. 206)
94–163	Energy Policy and Conservation Act
94–161	International Development and Food Assistance Act of 1975
94–141	Foreign Relations Authorization Act, Fiscal Year 1976
94–118	Japan-United States Friendship Act
94–110	Joint Resolution to Implement the United States Proposal for the Early-Warning System in Sinai
94–70	Atlantic Tunas Convention Act of 1975
94–39	National Aeronautics and Space Administration Authorization Act, 1976
93–627	Deepwater Port Act of 1974
93–618	Trade Act of 1974
93–618	Narcotics Control Trade Act (title VIII)
93–559	Foreign Assistance Act of 1974
93–479	Foreign Investment Study Act of 1974
93–475	State Department/USIA Authorization Act, Fiscal Year 1975
93–366	Antihijacking Act of 1974
93–365	Department of Defense Appropriation Authorization Act, 1975
93–248	Intervention on the High Seas Act
93–205	Endangered Species Act of 1973
93–199	Emergency Security Assistance Act of 1973
93–189	Foreign Assistance Act of 1973
93–188	United Nations Environment Program Participation Act of 1973
93–153	Trans-Alaska Pipeline Authorization Act
93–148	War Powers Resolution
93–129	Board for International Broadcasting Act of 1973
93–126	Department of State Appropriations Authorization Act of 1973
93–110	Par Value Modification Act—Foreign Currency Reports (title II)
92–544	Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriations Act, 1973
92–522	Marine Mammal Protection Act of 1972
92–499	Act to Extend Diplomatic Privileges to the Commission of the European Communities
92–403	Case Act—Transmittal of International Agreements
92–352	Foreign Relations Authorization Act of 1972
92–268	Par Value Modification Act
92–257	Trust Territory of the Pacific Islands Act
92–226	Foreign Assistance Act of 1971

92–39	Micronesian Claims Act of 1971
91–672	Foreign Military Sales Act Amendments, 1971
91–652	Special Foreign Assistance Act of 1971
91–441	Armed Forces Appropriation Authorization, 1971
91–269	United States Recognition and Participation in International Expositions
91–175	Foreign Assistance Act of 1969, as amended
90–629	Arms Export Control Act
90–554	Foreign Assistance Act of 1968
90–553	International Center Act
90–390	Export Loans—Assistance
90–349	Special Drawing Rights Act
90–137	Foreign Assistance Act of 1967
89–732	Cuban Refugee Adjustment Act
89–673	Foreign Gifts and Decorations Act of 1966
89–583	Foreign Assistance Act of 1966
89–532	Convention on the Settlement of Investment Disputes Act of 1966
89–486	Foreign Agents Registration Act Amendments
89–369	Asian Development Bank Act
89–296	Ryukyu Islands Claims Settlement Act
89–259	Cultural Objects—Importation for Temporary Display
89–171	Foreign Assistance Act of 1965
89–134	Peace Corps Act Amendments
88–633	Foreign Assistance Act of 1964
88–408	Tonkin Gulf Resolution
88–205	Foreign Assistance Act of 1963
87–826	Collection and Publication of Foreign Commerce and Trade Statistics
87–794	Trade Expansion Act of 1962
87–733	Cuban Resolution
87–565	Foreign Assistance Act of 1962
87–510	Migration and Refugee Assistance Act of 1962
87–297	Arms Control and Disarmament Act
87–293	Peace Corps Act
87–256	Mutual Educational and Cultural Exchange Act of 1961
87–195	Foreign Assistance Act of 1961
87–195	Tropical Forest Conservation Act of 1998 (part V)
87–125	General Government Matters, Department of Commerce, and Related Agencies Appropriation Act, 1962
86–735	Latin American Development Act
86–628	Legislative Branch Appropriation Act, 1961
86–565	International Development Association Act
86–472	Mutual Security Act of 1960
86–472	Center for Cultural and Technical Interchange Between East and West Act of 1960 (chapter VII)
86–420	Mexico-United States Interparliamentary Group
86–147	Inter-American Development Bank Act
86–108	Mutual Security Act of 1959
86–42	Canada-United States Interparliamentary Group
85–931	Agricultural Trade Development and Assistance Act of 1954—Extension and Amendment

85–846	EURATOM Cooperation Act of 1958
85–568	National Aeronautics and Space Act of 1958
85–474	Departments of State and Justice, the Judiciary, and Related Agencies Appropriation Act, 1959
85–177	International Atomic Energy Agency Participation Act of 1957
85–7	Resolution To Promote Peace and Stability in the Middle East
84–885	State Department Basic Authorities Act of 1956
84–689	United States Group of the North Atlantic Treaty Parliamentary Conferences—Participation Resolution
84–350	International Finance Corporation Act
83–703	Atomic Energy Act of 1954
83–680	Fisherman's Protective Act of 1967
83–665	Mutual Security Act of 1954
83–480	Agricultural Trade Development and Assistance Act of 1954
83–451	Civil Government for the Trust Territory of the Pacific Islands
82–486	Extending Certain Privileges to Representatives of Organization of American States
82–414	Immigration and Nationality Act
81–764	Tuna Conventions Act of 1950
81–676	Whaling Convention Act of 1949
81–507	National Science Foundation Act of 1950
81–455	International Claims Settlement Act of 1949
81–439	Agricultural Act of 1949
80–772	Act of June 25, 1948
80–772	Logan Act—Private Correspondence With Foreign Governments
80–772	Johnson Act—Financial Transactions With Foreign Governments
80–402	United States Information and Educational Exchange Act of 1948
80–357	United Nations Headquarters Agreement Act
80–253	National Security Council
79–547	Act of July 25, 1946
79–291	International Organizations Immunities Act
79–264	United Nations Participation Act of 1945
79–173	Export-Import Bank Act of 1945
79–171	Bretton Woods Agreements Act
76–54	Neutrality Act of 1939
75–583	Foreign Agents Registration Act of 1938
75–543	Act of May 25, 1938
71–361	Tariff Act of 1930
69–186	Foreign Service Buildings Act, 1926
65–91	Trading With the Enemy Act

Appendix II

NOTE.—Appendix II lists Public Laws included in *Legislation on Foreign Relations Through 2004*, either as free-standing law or in amendments, arranged alphabetically by short title or popular name with corresponding Public Law number.

Short Title	Public Law No.
1984 Act to Combat International Terrorism	98–533
1998 Supplemental Appropriations and Rescissions Act	105–174
2002 Supplemental Appropriations Act for Further Recovery From and Response to Terrorist Attacks on the United States	107–206
AGOA Acceleration Act of 2004	108–274
Act For Reform In Emerging New Democracies and Support and Help for Improved Partnership with Russia, Ukraine, and Other New Independent States (FRIENDSHIP Act)	103–199
Act of May 25, 1938	75–543
Act of July 25, 1946	79–547
Act of June 25, 1948	80–772
Act to Extend Diplomatic Privileges to the Commission of the European Communities	92–499
Act to Honor the Victims of the Bombing of Panam Flight	103–158
Act to Prevent Pollution from Ships	96–478
Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference)	106–113
Afghan Women and Children Relief Act of 2001	107–81
Afghanistan Freedom Support Act of 2002	107–327
Africa: Seeds of Hope Act of 1998	105–385
African Conflict Resolution Act	103–381
African Development Bank Act (title XIII, subtitle B, part 3)	97–35
African Development Foundation Act (title V)	96–533
African Development Fund Act (title II)	94–302
African Elephant Conservation Act (title II)	100–478

African Elephant Conservation Reauthorization Act of 1998 105–217
African Elephant Conservation Reauthorization Act of 2001 107–111
African Famine Relief and Recovery Act of 1985 99–8
African Growth and Opportunity Act (title I) 106–200
Agricultural Act of 1949 81–439
Agricultural Competitiveness and Trade Act of 1988 (title IV) 100–418
Agricultural Development and Trade Act of 1990 (title XV) 101–624
Agricultural Exports (title V) 98–258
Agricultural Programs Adjustment Act of 1984 98–258
Agricultural Trade Act of 1978 95–501
Agricultural Trade Development and Assistance Act of 1954 83–480
Agricultural Trade Development and Assistance Act of 1954—Extension and Amendment 85–931
Agricultural Trade Suspension Adjustment Act of 1980 (title II) 96–494
Agriculture and Food Act of 1981 97–98
Agriculture Export Relief Act 105–194
Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2005 (division A) 108–447
Agriculture Trade and Export Policy Commission Act (title XII, subtitle C) 97–98
Aid, Trade, and Competitiveness Act of 1992 (title III) 102–549
Alaska National Interests Lands Conservation Act 96–487
Amendments to U.S.-Mexico Agreement Establishing a Border Environment Cooperation Commission and North American Development Bank 108–215
American Aid to Poland Act of 1988 (title II, subtitle B, part II) 100–418
American Fisheries Promotion Act (title II) 96–561
American Institute in Taiwan Facilities Enhancement Act 106–212
American Servicemembers Protection Act (title II) 107–206
Andean Trade Preference Act (title II) 102–182
Andean Trade Promotion and Drug Eradication Act (title XXXI) 107–210
Anglo-Irish Agreement Support Act of 1986 99–415
Antarctic Marine Living Resources Convention Act of 1984 (title III) 98–623
Antarctic Protection Act of 1990 101–594
Antarctic Science, Tourism, and Conservation Act of 1996 104–227
Anti-Economic Discrimination Act of 1994 (title V, part C) 103–236
Anti-Terrorism Act of 1987 (title X) 100–204
Antiterrorism and Effective Death Penalty Act of 1996 104–132
Antihijacking Act of 1974 93–366
Approval of the Compact of Free Association With the Government of Palau 99–658

Approving the Renewal of Import Restrictions—Burma 108–272
Arctic Research and Policy Act of 1984 (title I) 98–373
Arctic Tundra Habitat Emergency Conservation Act ... 106–108
Armed Forces Appropriation Authorization, 1971 91–441
Arms Control and Disarmament Act 87–297
Arms Control and Disarmament Act Authorization for Fiscal Years 1986 and 1987 (title VII) 99–93
Arms Control and Disarmament Amendments Act of 1987 100–213
Arms Control and Disarmament Amendments Act of 1989 101–216
Arms Control and Nonproliferation Act of 1994 (title VII, part A) 103–236
Arms Control and Nonproliferation Act of 1999 (title XI, division B, H.R. 3427, enacted by reference) 106–113
Arms Control, Nonproliferation, and Security Assistance Act of 1999 (division B, H.R. 3427, enacted by reference) 106–113
Arms Export Control Act 90–629
Asia Foundation Act (title IV) 98–164
Asian Development Bank Act 89–369
Asian Elephant Conservation Act of 1997 105–96
Asian Elephant Conservation Reauthorization Act of 2002 107–141
Asian/Pacific American Heritage Month—Designation 102–450
Assistance for International Malaria Control Act 106–570
Atlantic Salmon Convention Act of 1982 (title III) 97–389
Atlantic Tunas Convention Act of 1975 94–70
Atlantic Tunas Convention Act of 1975, Appropriation Authorization 96–339
Atlantic Tunas Convention Act of 1995 (title III) 104–43
Atlantic Tunas Convention Authorization Act of 1995 (title III) 104–43
Atomic Energy Act of 1954 83–703
Atomic Energy Defense Act (division D) 107–314
Au Pair Extension 104–72
Authorization for an Improved U.S./Soviet Direct Communications Link 99–85
Authorization for Use of Military Force [international terrorism] 107–40
Authorization for Use of Military Force Against Iraq Resolution of 2002 107–243
Authorization for Use of U.S. Armed Forces Pursuant to U.N. Security Council Resolution 678 102–1
Aviation Security Improvement Act of 1990 101–604
Balanced Budget and Emergency Deficit Control Act of 1985 [Gramm-Rudman-Hollings Act] 99–177
Ballistic Missile Defense Act of 1995 (title II, subtitle C) 104–106
Bangladesh Disaster Assistance Act of 1988 100–576
Bank Export Services Act (title II) 97–290
Belarus Democracy Act of 2004 108–347
Bill Emerson Humanitarian Trust Act (title III) 96–494

Biological Weapons Anti-Terrorism Act of 1989 101–298
Board for International Broadcasting Act of 1973 93–129
Board for International Broadcasting Appropriations, 1988 (sec. 101(a), title V) 100–202
Board for International Broadcasting Authorization Act, Fiscal Years 1982 and 1983 (title IV) 97–241
Board for International Broadcasting Authorization Act, Fiscal Years 1984 and 1985 (title III) 98–164
Board for International Broadcasting Authorization Act, Fiscal Years 1986 and 1987 (title III) 99–93
Board for International Broadcasting Authorization Act, Fiscal Years 1988 and 1989 (title V) 100–204
Bob Stump National Defense Authorization Act for Fiscal Year 2003 107–314
Bretton Woods Agreements Act 79–171
Bretton Woods Agreements Act Amendments, 1978 95–435
Bretton Woods Agreements Act Amendments, 1980 96–389
Bring Them Home Alive Act of 2000 106–484
Cambodian Genocide Justice Act (title V, part D) 103–236
Canada-United States Interparliamentary Group 86–42
Cape Town Treaty Implementation Act of 2004 108–297
Caribbean Basin Economic Recovery Act (title II) 98–67
Caribbean Basin Economic Recovery Expansion Act of 1990 (title II) 101–382
Caribbean National Forest Wild and Scenic Rivers Act of 2002 107–365
Case Act—Transmittal of International Agreements ... 92–403
Center for Cultural and Technical Interchange Between East and West Act of 1960 (chapter VII) 86–472
Central American Peace Assistance 100–276
Central Bering Sea Fisheries Enforcement Act of 1992 (title III) 102–582
Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (title III) 102–182
Chemical Weapons Convention Implementation Act of 1998 (division I) 105–277
Child Health Revolution 98–198
Chinese Student Protection Act of 1992 102–404
Civil Government for the Trust Territory of the Pacific Islands 83–451
Clean Air Act Amendments 101–549
Clean Diamond Trade Act 108–19
Clean Water for the Americas Partnership Act of 2002 (division A, title VI, subtitle D) 107–228
Clement J. Zablocki Memorial Outpatient Facility, American Children's Hospital, Krakow, Poland 98–266
Coast Guard Authorization Act of 1993 103–206
Collection and Publication of Foreign Commerce and Trade Statistics 87–826
Combatting Proliferation of Weapons of Mass Destruction Act of 1996 (title VII) 104–293
Commercial Space Act of 1998 105–303
Compact of Free Association Act of 1985 99–239

Competitiveness Policy Council Act (title V, part I, subtitle C) 100–418
Comprehensive Peace in Sudan Act of 2004 108–497
Congo Basin Forest Partnership Act of 2004 108–200
Congressional Hunger Fellows Act of 2002 (sec. 4404) 107–171
Consolidated Appropriations Act, 2005 108–447
Continuing Appropriations, 2005 108–309
Continuing Resolution, 1984 98–151
Convention on Cultural Property Implementation Act (title III) 97–446
Convention on the Settlement of Investment Disputes Act of 1966 89–532
Conventional Forces in Europe Treaty Implementation Act of 1991 102–228
Cooperative East-West Ventures in Space 98–562
Cooperative Threat Reduction Act of 1993 (title XII) ... 103–160
Crime Control Act of 1990 101–647
Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 104–114
Cuban Political Prisoners and Immigrants (sec. 101(a), title VII) 100–202
Cuban Refugee Adjustment Act 89–732
Cuban Resolution 87–733
Cuban Democracy Act of 1992 (title XVII) 102–484
Cultural Objects—Importation for Temporary Display 89–259
Customs and Trade Act of 1990 101–382
Czechoslovakian Claims Settlement Act of 1981 97–127
Dante B. Fascell North-South Center Act of 1991 (sec. 208) 102–138
David L. Boren National Security Education Act of 1991 102–183
Deep Seabed Hard Mineral Removal Tax Act of 1979 (title IV) 96–283
Deep Seabed Hard Mineral Resources Act 96–283
Deepwater Port Act of 1974 93–627
Defense Against Weapons of Mass Destruction Act of 1996 (title XIV) 104–201
Defense Against Weapons of Mass Destruction Act of 1998 (title XIV) 105–261
Defense Conversion, Reinvestment, and Transition Assistance Amendments of 1993 (title XIII) 103–160
Defense Offsets Disclosure Act of 1999 (subtitle D, title XII, H.R. 3427, enacted by reference) 106–113
Demilitarization of the Former Soviet Union Act of 1992 (title XIV) 102–484
Department of Defense and Emergency Supplemental Appropriations for Recovery From and Response To Terrorist Attacks on the United States Act, 2002 107–117
Department of Defense Appropriation Act, 1976 94–212
Department of Defense Appropriation Authorization Act, 1975 93–365
Department of Defense Appropriation Authorization Act, 1979 95–485
Department of Defense Appropriations Act, 2005 108–287

Department of Defense Authorization Act, 1983 97–252
Department of Defense Authorization Act, 1984 98–94
Department of Defense Authorization Act, 1985 98–525
Department of Defense Authorization Act, 1986 99–145
Department of Defense Authorization Act, 1987 (Division A) 99–661
Department of Energy Act of 1978 95–238
Department of State and Related Agency Appropriations Act, 2005 (division B, title IV) 108–447
Department of State Appropriations Authorization Act of 1973 93–126
Department of State Authorization Act, Fiscal Year 2003 (division A) 107–228
Department of State Authorization Act, Fiscal Years 1980 and 1981 (title I) 96–60
Department of State Authorization Act, Fiscal Years 1982 and 1983 97–241
Department of State Authorization Act, Fiscal Years 1984 and 1985 (titles I, X) 98–164
Department of State Special Agents Retirement Act of 1998 105–382
Department of the Interior and Related Agencies Appropriations Act, 2005 (division E) 108–447
Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2005 (division B) 108–447
Departments of State and Justice, the Judiciary, and Related Agencies Appropriation Act, 1959 85–474
Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriations Act, 1973 92–544
Diplomatic Relations Act 95–393
Diplomatic Security Act (titles I–IV) 99–399
Dire Emergency Supplemental Appropriations Act, 1988 100–393
Distribution of USIA Materials 102–454
Dolphin Protection Consumer Information Act (title IX) 101–627
Driftnet Act Amendments of 1990 (sec. 206) 94–265
Driftnet Impact Monitoring, Assessment, and Control Act of 1987 (title IV) 100–220
East Timor Transition to Independence Act of 2002 (division A, title VI, subtitle C) 107–228
Eastern Pacific Tuna Licensing Act of 1984 98–445
Education Amendments of 1978 95–561
Eisenhower Exchange Fellowship Act of 1990 101–454
Emergency Security Assistance Act of 1973 93–199
Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 108–106
Emergency Supplemental Appropriations and Rescissions for the Department of Defense to Preserve and Enhance Military Readiness Act of 1995 104–6

Emergency Supplemental Assistance for Israel Act of 1991 102–21
Emergency Supplemental Persian Gulf Refugee Assistance Act of 1991 102–45
Endangered Species Act of 1973 93–205
Energy Emergency Preparedness Act of 1982 97–229
Energy Policy Act of 1992 102–486
Energy Policy and Conservation Act 94–163
Energy Policy and Conservation Act Amendments 96–133
Enhanced Border Security and Visa Entry Reform Act of 2002 107–173
Enterprise for the Americas Act of 1992 (title VI) 102–549
Enterprise for the Americas Initiative Act of 1992 102–532
Establishing a Commission on Security and Cooperation in Europe 94–304
EURATOM Cooperation Act of 1958 85–846
European Bank for Reconstruction and Development Act (sec. 562(c)) 101–513
European Security Act of 1998 (division G, title XXVII) 105–277
Exchange Rates and International Economic Policy Coordination Act of 1988 (title III, subtitle A) 100–418
Export Administration Act of 1979 96–72
Export Administration Amendments Act of 1981 97–145
Export Administration Amendments Act of 1985 99–64
Export Enhancement Act of 1988 (title II) 100–418
Export Enhancement Act of 1992 102–429
Export Enhancement Act of 1999 106–158
Export Enhancement Program Amendments of 1994 (title IV, subtitle A, part II, sec. 411(a)) 103–465
Export-Import Bank Act Amendments of 1978 (title XIX) 95–630
Export-Import Bank Act Amendments of 1986 99–472
Export-Import Bank Act of 1945 79–173
Export-Import Bank and Tied Aid Credit Amendments of 1988 (title III, subtitle D) 100–418
Export-Import Bank Reauthorization Act of 2002 107–189
Export Loans—Assistance 90–390
Export Trading Company Act of 1982 (title I) 97–290
Extending Certain Privileges to Representatives of Organization of American States 82–486
Extradition Treaties Implementation Act of 1998 105–323
Fair Trade in Auto Parts Act of 1988 (title II, subtitle A, part II) 100–418
Famine Prevention and Freedom From Hunger Improvement Act of 2000 106–373
Farm Security and Rural Investment Act of 2002 107–171
Fascell Fellowship Act (title X) 99–399
Fascell Fellowship Amendments Act of 1990 (sec. 9) ... 101–454
Federal Agriculture Improvement and Reform Act of 1996 104–127
Federal Aviation Reauthorization Act of 1996 104–264
Federal Reports Elimination Act of 1998 105–362
Federal Reports Elimination and Sunset Act of 1995 .. 104–66

Federal Triangle Development Act 100–113
Financial Institutions Regulatory and Interest Rate Control Act of 1978 95–630
Financial Reports Act of 1988 (title III, subtitle G) 100–418
Finding the Government of Iraq in Unacceptable and Material Breach of Its International Obligations 105–235
Fisheries Act of 1995 104–43
Fisheries Amendments of 1982 97–389
Fisherman's Protective Act of 1967 83–680
Fishery Conservation Amendments of 1990 101–627
Fishery Conservation Zone Transition Act 95–6
Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 106–398
Food, Agriculture, Conservation, and Trade Act of 1990 101–624
Food, Agriculture, Conservation, and Trade Act Amendments of 1991 102–237
Food and Agriculture Act of 1977 95–113
Food for Progress Act of 1985 (sec. 1110) 99–198
Food Security Act of 1985 99–198
Foreign Affairs Agencies Consolidation Act of 1998 (division G, subdivision A) 105–277
Foreign Affairs Reform and Restructuring Act of 1998 (division G) 105–277
Foreign Agents Registration Act Amendments 89–486
Foreign Agents Registration Act of 1938 75–583
Foreign Assistance Act of 1961 87–195
Foreign Assistance Act of 1962 87–565
Foreign Assistance Act of 1963 88–205
Foreign Assistance Act of 1964 88–633
Foreign Assistance Act of 1965 89–171
Foreign Assistance Act of 1966 89–583
Foreign Assistance Act of 1967 90–137
Foreign Assistance Act of 1968 90–554
Foreign Assistance Act of 1969, as amended 91–175
Foreign Assistance Act of 1971 92–226
Foreign Assistance Act of 1973 93–189
Foreign Assistance Act of 1974 93–559
Foreign Assistance and Related Programs Appropriations Act, 1984 (sec. 101(b)(1)) 98–151
Foreign Corrupt Practices Act Amendments of 1988 (title V, subtitle A, part I) 100–418
Foreign Corrupt Practices Act of 1977 (title I) 95–213
Foreign Debt Reserving Act of 1989 (title IV) 101–240
Foreign Direct Investment and International Financial Date Improvements Act of 1990 101–533
Foreign Gifts and Decorations Act of 1966 89–673
Foreign Intelligence Surveillance Act of 1978 95–511
Foreign Investment Study Act of 1974 93–479
Foreign Military Sales Act Amendments, 1971 91–672
Foreign Missions Act (title II) 97–241
Foreign Missions Amendments Act (title VI) 98–164
Foreign Narcotics Kingpin Designation Act (title VIII) 106–120

Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (sec. 101(e)) 100–202
Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 100–460
Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 101–167
Foreign Operations, Export Financing, and Related Programs Appropriations Act 1991 101–513
Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993 102–391
Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995 103–306
Foreign Operations, Export Financing, and Related Programs Supplemental Appropriations Act, 1997 (title I, sec. 101(c)) 104–208
Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (H.R. 3422, enacted by reference) 106–113
Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001 106–429
[Kenneth M. Ludden] Foreign Operations, Export Financing and Related Programs Appropriations Act, 2002 107–115
Foreign Operations, Export Financing and Related Programs Appropriations Act, 2003 (division E) 108–7
Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2004 (division D) 108–199
Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D) 108–447
Foreign Relations Authorization Act, Fiscal Year 1976 94–141
Foreign Relations Authorization Act, Fiscal Year 1977 94–350
Foreign Relations Authorization Act, Fiscal Year 1978 95–105
Foreign Relations Authorization Act, Fiscal Year 1979 95–426
Foreign Relations Authorization Act, Fiscal Year 2003 107–228
Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 99–93
Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 100–204
Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 101–246
Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 102–138
Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 103–236
Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (division G, subdivision B) 105–277
Foreign Relations Authorization Act of 1972 92–352
Foreign Relations Persian Gulf Conflict Emergency Supplemental Authorization Act, Fiscal Year 1991 .. 102–20
Foreign Service Act of 1980 96–465
Foreign Service Buildings Act, 1926 69–186
Foreign Service Retirement Amendments of 1976 (title V) 94–350
Foreign Shipping Practices Act of 1988 (title X) 100–418

Foreign Sovereign Immunities Act of 1976 94–583
Forest Resources Conservation and Shortage Relief Act of 1990 (title IV) 101–382
Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 (FREEDOM Support Act) 102–511
Freedom Investment Act of 2002 (division A, title VI, subtitle E) 107–228
FRIENDSHIP Act 103–199
Further Continuing Appropriations, 1985 99–190
General Government Matters, Department of Commerce, and Related Agencies Appropriation Act, 1962 87–125
Generalized System of Preferences Renewal Act of 1984 (title V) 98–573
Gerald B.H. Solomon Freedom Consolidation Act of 2002 107–187
German-American Day 103–100
German Democratic Republic Fishery Agreement 100–350
Global AIDS and Tuberculosis Relief Act of 2000 106–264
Global AIDS Research and Relief Act of 2000 (title I) .. 106–264
Global Anti-Semitism Review Act of 2004 108–332
Global Change Research Act of 1990 101–606
Global Climate Change Prevention Act of 1990 (title XXIV) 101–624
Global Climate Protection Act of 1987 (title XI) 100–204
Global Environmental Protection Assistance Act of 1989 (title VII) 101–240
Governing International Fishery Agreement With Poland 105–384
Governing International Fishery Agreements With Iceland and the European Economic Community (title I) 98–623
Governing International Fishery Agreements With Japan and Spain (title IV) 97–389
Great Ape Conservation Act of 2000 106–411
Haitian Refugee Immigration Fairness Act of 1998 (division A, sec. 101(h), title IX) 105–277
HELP Commission Act (division B, sec. 637) 108–199
Helsinki Human Rights Day 103–294
High Seas Driftnet Fisheries Enforcement Act 102–582
High Seas Driftnet Fishing Moratorium Protection Act (title VI) 104–43
High Seas Fishing Compliance Act of 1995 (title I) 104–43
Higher Education Amendments of 1986 99–498
Holocaust Victims Redress Act 105–158
Horn of Africa Recovery and Food Security Act 102–274
Hostage Relief Act of 1980 96–449
Human Rights, Refugees, and Other Foreign Relations Provisions Act of 1996 104–319
Humpback Whales Wildlife Sanctuary (West Indies) ... 99–630
ILSA [Iran and Libya Sanctions Act] Extension Act of 2001 107–24
Immigration Act of 1990 101–649

Immigration and Nationality Act 82–414
Immigration Reform and Control Act of 1986 99–603
Implementation of Compact of Free Association With Palau 101–219
Implementing Agreement for Vienna Convention on Diplomatic Relations 101–62
Indochinese Refugee and Resettlement Act of 1987 (sec. 101(a), title VIII) 100–202
Inspector General Act of 1978 95–452
Intelligence Authorization Act for Fiscal Year 1985 98–618
Intelligence Authorization Act for Fiscal Year 1996 104–93
Intelligence Authorization Act for Fiscal Year 1997 104–293
Intelligence Authorization Act for Fiscal Year 1998 105–107
Intelligence Authorization Act for Fiscal Year 2000 106–120
Intelligence Reform and Terrorism Prevention Act of 2004 108–458
Inter-American Development Bank Act 86–147
Inter-American Investment Corporation Act (title II, S. 2416, enacted by reference) 98–473
Intercountry Adoption Act of 2000 106–279
International Academic Opportunities Act of 2000 (title III) 106–309
International Anti-Bribery and Fair Competition Act of 1998 105–366
International Anti-Corrpution and Good Governance Act of 2000 (title II) 106–309
International Arms Sales Code of Conduct Act of 1999 (subtitle F, title XII, H.R. 3427, enacted by reference) 106–113
International Atomic Energy Agency Participation Act of 1957 85–177
International Carriage of Perishable Foodstuffs Act 97–325
International Center Act 90–553
International Child Abduction Remedies Act 100–300
International Claims Settlement Act of 1949 81–455
International Coffee Agreement Act of 1980 96–599
International Communication Agency Authorization for Fiscal Year 1979 (title II) 95–426
International Communication Agency Authorization Act, Fiscal Years 1980 and 1981 (title II) 96–60
International Cooperation in Global Change Research Act of 1990 (title II) 101–606
International Cooperation to Protect Biological Diversity 100–530
International Debt Management Act of 1988 (title III, subtitle B) 100–418
International Development and Finance Act of 1989 ... 101–240
International Development and Food Assistance Act of 1975 94–161
International Development and Food Assistance Act of 1977 95–88
International Development and Food Assistance Act of 1978 95–424
International Development Association Act 86–565

International Development Cooperation Act of 1979 96–53
International Dolphin Conservation Act of 1992 102–523
International Dolphin Conservation Program Act 105–42
International Emergency Economic Powers Act (title II) 95–223
International Energy Emergency Authorities: Extension 100–373
International Environmental Protection Act of 1983 (title VII) 98–164
International Finance Corporation Act 84–350
International Financial Institutions Act 95–118
International Forestry Cooperation Act of 1990 (title VI) 101–513
International Investment and Trade in Services Survey Act 94–472
International Lending Supervision Act of 1983 (title IX) 98–181
International Malaria Control Act (title I) 106–570
International Maritime and Port Security Act (title IX) 99–399
International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001 (title III) 107–56
International Narcotics Control Act of 1985 (title VI) .. 99–83
International Narcotics Control Act of 1986 (title II) ... 99–570
International Narcotics Control Act of 1988 (title IV) .. 100–690
International Narcotics Control Act of 1989 101–231
International Narcotics Control Act of 1990 101–623
International Narcotics Control Corrections Act of 1994 103–447
International Natural Rubber Agreement Appropriation Authorization for Fiscal Year 1981 96–271
International Organizations Immunities Act 79–291
International Parental Kidnapping Crime Act 105–173
International Peacekeeping Act of 1992 102–311
International Religious Freedom Act of 1998 105–292
International Security and Development Assistance Authorization Act of 1983 (sec. 101(b)(2)) 98–151
International Security and Development Cooperation Act of 1980 96–533
International Security and Development Cooperation Act of 1981 97–113
International Security and Development Cooperation Act of 1985 99–83
International Security Assistance Act of 1977 95–92
International Security Assistance Act of 1978 95–384
International Security Assistance Act of 1979 96–92
International Security Assistance and Arms Export Control Act of 1976 94–329
International Sugar Agreement, 1977, Implementation 96–236
International Trade and Investment Act (title III) 98–573
International Tuberculosis Control Act of 2000 (title II) 106–264
Intervention on the High Seas Act 93–248
Iran and Libya Sanctions Act of 1996 104–172

Iran Claims Settlement (title V) 99–93
Iran-Iraq Arms Non-Proliferation Act of 1992 (title XVI) 102–484
Iran Nonproliferation Act of 2000 106–178
Iran Nuclear Proliferation Prevention Act of 2002 (division B, title XIII, subtitle D) 107–228
Iraq Liberation Act of 1998 105–338
Iraq Sanctions Act of 1990 (secs. 586–586J) 101–513
Irish Peace Process Cultural and Training Program Act of 1998 105–319
Japan-United States Friendship Act 94–118
Japanese Imperial Government Disclosure Act of 2000 (title VIII) 106–567
Jerusalem Embassy Act of 1995 104–45
Jobs Through Exports Act of 1992 102–549
Jobs Through Trade Expansion Act of 1994 103–392
Johnson Act—Financial Transactions With Foreign Governments 80–772
Joint Resolution to Implement the United States Proposal for the Early-Warning System in Sinai 94–110
Jordan Supplemental Economic Assistance Authorization Act of 1985 (title IV) 99–88
Kenneth M. Ludden Foreign Operations, Export Financing and Related Programs Appropriations Act, 2002 107–115
Latin American Development Act 86–735
Lebanon Emergency Assistance Act of 1983 98–43
Legislative Branch Appropriation Act, 1961 86–628
Logan Act—Private Correspondence With Foreign Governments 80–772
Magnuson-Stevens Fishery Conservation and Management Act of 1976 94–265
Marine Mammal Protection Act of 1972 92–522
Marine Turtle Conservation Act of 2004 108–266
Mexican Debt Disclosure Act of 1995 (title IV) 104–6
Mexico-United States Interparliamentary Group 86–420
Microenterprise for Self-Reliance Act of 2000 (title I) .. 106–309
Microenterprise for Self-Reliance and International Anti-Corruption Act of 2000 106–309
Microenterprise Report to Congress 108–31
Microenterprise Results and Accountability Act of 2004 108–484
Micronesian Claims Act of 1971 92–39
Middle East Peace Facilitation Act of 1993 103–125
Middle East Peace Facilitation Act of 1994 (title V, part E) 103–236
Middle East Peace Commitments Act of 2002 (division A, title VI, subtitle A) 107–228
Migration and Refugee Assistance Act of 1962 87–510
Migratory Bird Treaty Reform Act of 2004 (division E, sec. 143) 108–447
Mike Mansfield Fellowship Act (title II, part C) 103–236
Millennium Challenge Act of 2003 (division D, title VI) 108–199

Miscellaneous Amendments and Authorization—FYs 1996 and 1997 104–164
Miscellaneous Appropriations and Offsets Act, 2005 (division J, title I) 108–447
Miscellaneous International Affairs Authorization Act of 1988 (S. 2757, enacted by reference) 100–461
Miscellaneous Trade and Technical Corrections Act of 1999 106–36
Miscellaneous Trade and Technical Corrections Act of 2004 108–429
Missile Defense Act of 1991 (title II, part C) 102–190
Most-Favored-Nation Treatment for Cambodia 104–203
Most-Favored-Nation Treatment for People's Republic of Bulgaria 102–158
Most-Favored-Nation Treatment for People's Republic of Bulgaria 104–162
Most-Favored-Nation Treatment for Czechoslovakia 101–541
Most-Favored Nation Treatment for Mongolian People's Republic 102–157
Most-Favored-Nation Treatment for Romania 104–171
Most-Favored Nation Treatment for the Union of Soviet Socialist Republics 102–197
Multilateral Development Bank Act of 1985 (sec. 101(i), H.R. 2253, enacted by reference) 99–190
Multilateral Development Banks Procurement Act (title III, subtitle C) 100–418
Multilateral Development Banks: Sense of Congress (title X) 98–181
Multilateral Export Control Enhancement Amendments Act (title II, subtitle D, part II) 100–418
Multilateral Investment Guarantee Agency Act (sec. 101(e), H.R. 3570, enacted by reference, title IV) 100–202
Multinational Force and Observers Participation Resolution 97–132
Multinational Force in Lebanon Resolution 98–119
Mutual Educational and Cultural Exchange Act of 1961 87–256
Mutual Security Act of 1954 83–665
Mutual Security Act of 1959 86–108
Mutual Security Act of 1960 86–472
National Academy of Peace and Conflict Resolution (title XV, part B) 95–561
National Aeronautics and Space Act of 1958 85–568
National Aeronautics and Space Administration Authorization Act, 1976 94–39
National Aeronautics and Space Administration Authorization Act of 1988 100–147
National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989 100–685
National Aeronautics and Space Administration Authorization Act, Fiscal Year 1991 101–611
National Aeronautics and Space Administration Authorization Act, Fiscal Year 1992 102–195

National Aeronautics and Space Administration Authorization Act, Fiscal Year 1993 102–588
National and Community Service Act of 1990 101–610
National Critical Materials Act of 1984 (title II) 98–373
National Defense Authorization Act, Fiscal Year 1987 99–661
National Defense Authorization Act, Fiscal Year 1989 100–456
National Defense Authorization Act for Fiscal Years 1988 and 1989 100–180
National Defense Authorization Act for Fiscal Years 1990 and 1991 101–189
National Defense Authorization Act for Fiscal Year 1991 101–510
National Defense Authorization Act for Fiscal Years 1992 and 1993 102–190
National Defense Authorization Act for Fiscal Year 1993 102–484
National Defense Authorization Act for Fiscal Year 1994 103–160
National Defense Authorization Act for Fiscal Year 1995 103–337
National Defense Authorization Act for Fiscal Year 1996 104–106
National Defense Authorization Act for Fiscal Year 1997 104–201
National Defense Authorization Act for Fiscal Year 1998 105–85
National Defense Authorization Act for Fiscal Year 1999 105–262
National Defense Authorization Act for Fiscal Year 2000 106–65
[Floyd D. Spence] National Defense Authorization Act for Fiscal Year 2001 106–398
National Defense Authorization Act for Fiscal Year 2002 107–107
[Bob Stump] National Defense Authorization Act for Fiscal Year 2003 107–314
National Defense Authorization Act For Fiscal Year 2004 108–136
[Ronald W. Reagan] National Defense Authorization Act For Fiscal Year 2005 108–375
National Emergencies Act 94–412
National Endowment for Democracy Act (title V) 98–164
National Former Prisoners of War Recognition Day 103–60
National Missile Defense Act of 1999 106–38
National Science Foundation Act of 1950 81–507
National Security and Corporate Fairness under the Biological Weapons Convention Act (chapter 2, subtitle A, title XI, division B, H.R. 3427, enacted by reference) 106–113
National Security Council 80–253
National Shipbuilding and Shipyard Conversion Act of 1993 (title XIII, subtitle D) 103–160
National Space Council Authorization Act of 1990 101–328
National Terrorist Asset Trading Center 106–346

NATO Participation Act of 1994 (title II) 103–447
Nazi War Crimes Disclosure Act 105–246
Neotropical Migratory Bird Conservation Act 106–247
Neutrality Act of 1939 76–54
Nicaraguan Adjustment and Central American Relief Act (title II) 105–100
Nondiscriminatory Treatment Toward Products of Albania 102–363
Nondiscriminatory Treatment Toward Products of Romania 103–133
Nonproliferation Assistance Coordinationa Act of 2002 107–228
Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 101–646
North American Free Trade Agreement Implementation Act 103–182
North Atlantic Treaty Organization Mutual Support Act of 1979 96–323
North Korea Threat Reduction Act of 1999 (subtitle B, title VIII, division A, H.R. 3427, enacted by reference) 106–113
North Korean Human Rights Act of 2004 108–333
North Pacific Anadromous Stocks Act of 1992 (title VIII) 102–567
North Pacific Anadromous Stocks Convention Act of 1992 (title VIII) 102–587
Northern Uganda Crisis Response Act 108–283
Northwest Atlantic Fisheries Convention Act of 1995 (title II) 104–43
Nuclear Non-Proliferation Act of 1978 95–242
Nuclear Non-Proliferation Act of 1978—Agreements for Cooperation 96–280
Nuclear Proliferation Prevention Act of 1994 (title VIII) 103–236
Nuclear Security Initiative Act of 2003 (title XXXVI) .. 108–136
Nuclear Waste Policy Act of 1982 97–425
Oceans Act of 1992 102–587
Oceans Act of 2000 106–256
Office of National Drug Control Policy Reauthorization Act of 1998 (division C, title VII) 105–277
Oil Pollution Act of 1990 101–380
Omnibus Consolidated and Emergency Supplemental Appropriations Act for Fiscal Year 1999 105–277
Omnibus Consolidated Appropriations for Fiscal Year 1997 104–208
Omnibus Diplomatic Security and Antiterrorism Act of 1986 99–399
Omnibus Insular Areas Act of 1992 102–247
Omnibus Trade and Competitiveness Act of 1988 100–418
Operation Desert Shield/Desert Storm Supplemental Appropriations Act, 1991 102–28
Overseas Private Investment Corporation Amendments Act of 1988 (H.R. 5263, enacted by reference) 100–461
Pacific Charter Commission Act of 2000 (title IV) 106–570
Pacific Salmon Treaty Act of 1985 99–5

Paul D. Coverdell Fellows Program Act of 2000 (sec. 408) 106–309
Paul D. Coverdell World Wise Schools Act of 2000 (title VI) 106–570
Panama Canal Act of 1979 96–70
Panama Canal Act Amendments of 1996 104–201
Panama Canal Commission Authorization Act for Fiscal Year 1990 (title XXXV) 101–189
Panama Canal Commission Authorization Act for Fiscal Year 1991 (title XXXV) 101–510
Panama Canal Commission Authorization Act for Fiscal Year 1992 (title XXXV) 102–190
Panama Canal Commission Authorization Act for Fiscal Year 1993 (title XXXV) 102–484
Panama Canal Commission Authorization Act for Fiscal Year 1994 (title XXXV) 103–160
Panama Canal Commission Authorization Act for Fiscal Year 1995 (title XXXVI) 103–337
Panama Canal Commission Authorization Act for Fiscal Year 1996 (title XXXV) 104–106
Panama Canal Commission Authorization Act for Fiscal Year 1997 (title XXXV) 104–201
Panama Canal Commission Authorization Act for Fiscal Year 1998 (title XXXV) 105–85
Panama Canal Commission Authorization Act for Fiscal Year 1999 (title XXXV) 105–261
Panama Canal Commission Authorization Act for Fiscal Year 2000 (title XXXV) 106–65
Par Value Modification Act 92–268
Par Value Modification Act—Foreign Currency Reports (title II) 93–110
Peace Corps Act 87–293
Peace Corps Act Amendments 89–134
Peace Corps Authorization for Fiscal Years 1986 and 1987 (title XI) 99–83
Peace Corps Authorization for Fiscal Year 1993 102–565
Peace Corps Reauthorization 106–30
Peace Process in Liberia 102–270
Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991 102–25
Persian Gulf POW/MIA Accountability Act of 2002 107–258
Pesticide Monitoring Improvements Act of 1988 (title IV, subtitle G) 100–418
PLO Commitments Compliance Act of 1989 (title VIII) 101–246
President's Emergency Food Assistance Act of 1984 (title III) 98–473
Prevention of Child Abduction Partnership Act 108–370
Primary Dealers Act of 1988 (title III, subtitle F) 100–418
Proliferation Prevention Enhancement Act of 1999 (subtitle E, title XII, H.R. 3427, enacted by reference) 106–113
Protection and Reduction of Government Secrecy Act (title IX) 103–236
Protection of Antarctica 101–620

Protection of Foreign Missions 97–418
Providing for Increased Participation by the United States in the Inter-American and Asian Development Banks and African Development Fund 96–259
Quincentenary of Voyage of Christopher Columbus 102–472
R.M.S. Titanic Maritime Memorial Act of 1986 99–513
Radio Broadcasting to Cuba Act 98–111
Radio Free Afghanistan 107–148
Radio Free Asia Act of 1998 (title XXXIX) 105–261
Reaffirming North Atlantic Alliance—United States Commitment 96–9
Reaffirming the Unity of the North Atlantic Alliance Commitment 95–287
Records Relating to Nazi Warm Crimes 104–309
Refugee Act of 1980 96–212
Refugee Education Assistance Act of 1980 96–422
Release of USIA Materials to Museums 99–475
Release of USIA Materials: "Fragile Ring of Life" 104–161
Release of USIA Materials: VOA, Radio Marti Recordings 104–269
Research and Training for Eastern Europe and the Independent States of the Former Soviet Union Act of 1983 (title VIII) 98–164
Resolution To Promote Peace and Stability in the Middle East 85–7
Rhinoceros and Tiger Conservation Act of 1994 103–391
Rhinoceros and Tiger Conservation Act of 1998 105–312
Rhinoceros and Tiger Conservation Reauthorization Act of 2001 107–112
Rio Grande American Canal Extension Act of 1990 101–438
Rio Grande Pollution Correction Act of 1987 100–465
Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 108–375
Russian Democracy Act of 2002 107–246
Russian Federation Debt for Nonproliferation Act of 2002 (division B, title XIII, subtitle B) 107–228
Ryukyu Islands Claims Settlement Act 89–296
Sales of Arms to Jordan 99–162
Sea of Okhotsk Fisheries Enforcement Act of 1995 (title V) 104–43
Secure Embassy Construction and Counterterrorism Act of 1999 (title VI, division A, H.R. 3427, enacted by reference) 106–113
Security Assistance Act of 1999 (title XII, H.R. 3427, enacted by reference) 106–113
Security Assistance Act of 2000 106–280
Security Assistance Act of 2002 (division B) 107–228
Shark Finning Prohibition Act 106–557
Silk Road Strategy Act of 1999 (sec. 596, H.R. 3422, enacted by reference) 106–113
Small Business International Trade and Competitiveness Act (title VII) 100–418
South African Democratic Transition Support Act of 1993 103–149

South Pacific Tuna Act of 1988 100–330
Soviet Nuclear Threat Reduction Act of 1991 (title II) 102–228
Soviet Scientists Immigration Act of 1992 102–509
Special Drawing Rights Act 90–349
Special Foreign Assistance Act of 1971 91–652
Special Foreign Assistance Act of 1986 99–529
Special International Security Assistance Act of 1979 96–35
Spoils of War Act of 1994 (title V, part B) 103–236
State Department Basic Authorities Act of 1956 84–885
State Department/USIA Authorization Act, Fiscal Year 1975 93–475
Steel Import Stabilization Act (title VIII) 98–573
Strategic and Critical Materials Transaction Authorization Act of 1979 96–175
Striped Bass Conservation, Atlantic Coastal Fisheries Management and Marine Mammal Rescue Assistance Act of 2000 106–555
Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 105–261
Sudan Peace Act 107–245
Supplemental Appropriations Act of 1993 103–50
Supplemental Appropriations Act, 1984 98–181
Supplemental Appropriations Act, 1985 99–88
Support for East European Democracy (SEED) Act of 1989 101–179
Support for Overseas Cooperative Development Act (sec. 401) 106–309
Survival Assistance for Victims of Civil Strife in Central America 101–215
Sustainable Fisheries Act 104–297
Syria Accountability and Lebanese Sovereignty Restoration Act of 2003 108–175
Taiwan's Participation in the World Health Organization 108–235
Taiwan's Participation in the World Health Organization 108–28
Taiwan Relations Act 96–8
Tariff Act of 1930 71–361
Tariff Suspension and Trade Act of 2000 106–476
Telecommunications Trade Act of 1988 (title I, subtitle C, part 4) 100–418
Termination of Trade Restrictions to Czechoslovakia and Hungary 102–182
Terrorist Bombings Covnention Implementation Act of 2002 107–197
Tibetan Policy Act 2002 (division A, title VI, subtitle B) 107–228
To Provide for an Investigation of the Whereabouts of U.S. Citizens Missing From Cyprus Since 1974 103–372
Tonkin Gulf Resolution 88–408
Torture Victim Protection Act of 1991 102–256
Torture Victims Relief Reauthorization Act of 1999 106–87
Tourism Policy and Export Promotion Act of 1992 102–372
Trade Act of 1974 93–618

Trade Act of 2002 107–210
Trade Agreements Act of 1979 96–39
Trade and Development Act of 2000 106–200
Trade and Development Enhancement Act of 1983 (title VI, part C) 98–181
Trade and Tariff Act of 1984 98–573
Trade Deficit Review Commission Act (division A, sec. 127) 105–277
Trade Expansion Act of 1962 87–794
Trade Sanctions Reform and Export Enhancement Act of 2000 (title IX) 106–387
Trading With the Enemy Act 65–91
Trafficking Victims Protection Act of 2000 (division A) 106–386
Trans-Alaska Pipeline Authorization Act 93–153
Tropical Forest Conservation Act of 1998 (part V) 87–195
Tropical Forest Conservation Act Reauthorization 108–323
Trust Territory of the Pacific Islands Act 92–257
Tuna Conventions Act of 1950 81–764
United Nations Environment Program Participation Act of 1973 93–188
United Nations Headquarters Agreement Act 80–357
United Nations Participation Act of 1945 79–264
United Nations Reform Act of 1998 (division F, subdivision C) 105–277
United Nations Reform Act of 1999 (title IX, division A, H.R. 3427, enacted by reference) 106–113
United States-Australia Free Trade Agreement Implementation Act 108–286
United States-Canada Free Trade Agreement Implementation Act of 1988 100–449
United States-Chile Free Trade Agreement Implementation Act 108–77
United States Government Opposition to the Practice of Torture 98–447
United States Group of the North Atlantic Treaty Parliamentary Conferences—Participation Resolution ... 84–689
United States-Hong Kong Policy Act of 1992 102–383
United States-India Fund for Cultural, Educational, and Scientific Cooperation Act (title IX) 98–164
United States Information Agency Authorization for Fiscal Year 1977 (title II) 94–350
United States Information Agency Authorization for Fiscal Year 1978 (title II) 95–105
United States Information Agency Authorization Act, Fiscal Years 1982 and 1983 (title III) 97–241
United States Information Agency Authorization Act, Fiscal Years 1984 and 1985 (title II) 98–164
United States Information Agency Authorization Act, Fiscal Years 1986 and 1987 (title II) 99–93
United States Information Agency Authorization Act, Fiscal Years 1988 and 1989 (title II) 100–204
United States Information and Educational Exchange Act of 1948 80–402
United States Institute for Peace Act (title XVII) 98–525

United States International Broadcasting Act of 1994 (title III) 103–236
United States-Israel Free Trade Area Implementation Act of 1985 99–47
United States-Japan Fishery Agreement Approval Act of 1987 100–220
United States-Jordan Free Trade Area Implementation Act 107–43
United States-Korea Fishery Agreement 100–66
United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 108–25
United States-Macau Policy Act of 2000 (title II) 106–570
United States-Morocco Free Trade Agreement Implementation Act 108–302
United States Policy Toward Haiti 103–423
United States Recognition and Participation in International Expositions 91–269
United States Scholarship Program for Developing Countries Authorization, Fiscal Years 1986 & 1987 (title VI) 99–93
Uniting and Strengthening America By Providing Appropriate Tools Required To Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 107–56
Urgent Assistance for Democracy in Panama Act of 1990 101–243
Uruguay Rounds Agreements Act 103–465
U.S.-China Relations Act of 2000 106–286
U.S. Holocaust Assets Commission Act of 1998 105–186
U.S.-U.S.S.R. Fishing Agreement 100–629
Victims of Terrorism Compensation Act (title VIII) 99–399
Victims of Trafficking and Violence Protection Act of 2000 106–386
Vietnam Education Foundation Act of 2000 (title II) ... 106–554
Visa for Officials of Taiwan 103–416
War Powers Resolution 93–148
Weapons of Mass Destruction Control Act of 1992 (title XV) 102–484
Western Hemisphere Drug Elimination Act (division C, title VIII) 105–277
Western Hemisphere Drug Elimination Technical Corrections Act 106–35
Whaling Convention Act of 1949 81–676
Wild Bird Conservation Act of 1992 102–440
Wine Equity and Export Expansion Act of 1984 (title IX) 98–573
Withdrawal of MFN From Serbia and Montenegro 102–420
World Food Day 103–108
Yukon River Salmon Act of 1995 (title VII) 104–43
Yukon River Salmon Act of 2000 106–450
Zimbabwe Democracy and Economic Recovery Act of 2001 107–99

USE OF THE INDEX

The index is organized by subject matter only. Each subject entry also includes the legal citation indicating the document to which it refers. These legal citations were not chosen on the basis of standard legal citation form, but rather for the amount of information they provided and for convenience in producing a computer-printed index.

Page references, wherever possible, indicate the exact page on which mention of the entry is made. Entries of a more general nature that refer to a large section or to an entire document are listed with the page on which the reference begins.

INDEX

A

ABM Treaty
Absence of
Effect on strategic offensive and defensive programs. PL 100–180 Sec 233 1247
Interpretation of
Effect on Strategic Defense Initiative program. PL 99–661 Sec 217 1266
ACTION
(see also Foreign Service)
(see also Peace Corps)
Interdepartmental cooperation ..... EO 12137 Sec 1–602 1607
Transfer of functions to Peace Corps ..... PL 97–113 Sec 601(b) 1581
Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001. PL 106–113 465
Advisory Committee for Studies of Eastern Europe and the Independent States of the Former Soviet Union. PL 98–164 Sec 804 155
Report to Congress ..... PL 98–164 Sec 807 156
Afghan Women and Children Relief Act of 2001. PL 107–81 322
Afghanistan Freedom Support Act of 2002
Drawdown support
Supplemental appropriations, 2003 PL 108–11 Sec 1307 10
Afghanistan-U.S. relations
Afghan National Army
Training and equipment funding ..... PL 108–287 Sec 9006 734
Coalition forces
Funding availability ..... PL 108–287 Sec 9009 735
Counterdrug efforts
Report to Congress ..... PL 108–375 Sec 1022 699
Sense of Congress ..... PL 108–375 Sec 1022 699
Drug control
Congressional review ..... PL 101–623 Sec 12 386
Economic Support Fund
Supplemental appropriations, 2003 PL 108–11 Ch 5 14
Findings of Congress ..... PL 107–81 Sec 2 322
Foreign aid
Assistance authorization ..... PL 107–81 Sec 3 323
Humanitarian assistance ..... PL 99–661 Sec 331 1268
Sense of Congress ..... PL 98–525 Sec 1542 1311
Military and security forces
Assistance authorization ..... PL 108–375 Sec 1202 707
Operation Enduring Freedom
Report to Congress ..... PL 107–314 Sec 1043 774
Refugees
Humanitarian assistance ..... PL 101–510 Sec 303 1145
PL 101–189 Sec 304 1173
PL 99–145 Sec 305 1277
Africa Food Security Initiative
Foreign aid ..... PL 105–385 Sec 101 185

Africa-U.S. relations
Agricultural practices
Study on improving ..... PL 106–200 Sec 130 181
Conflict resolution capabilities
Improving ..... PL 103–381 Sec 4–5 193
Report to Congress ..... PL 103–381 Sec 9 194
Conflicts
Sense of Congress ..... PL 103–381 Sec 2 191
Desertification
U.S. role in combating ..... PL 106–200 Sec 131 182
Foreign aid
Appropriations authorization, FY 1985. PL 99–8 213
Military establishments
HIV/AIDS prevention training and education. PL 106–264 Sec 114 514
Refugee assistance ..... PL 99–8 Sec 3 213
Africa, Horn of-U.S. relations
Debt relief ..... PL 102–274 Sec 6(d) 208
Findings of Congress ..... PL 102–274 Sec 2 202
Food aid
Private voluntary and international organizations. PL 102–274 Sec 6(a)(2) 207
PL 102–274 Sec 6(e) 208
Targeting ..... PL 102–274 Sec 6 207
International relief ..... PL 102–274 Sec 4(b) 205
Peace and development
Promotion of ..... PL 102–274 Sec 5 206
U.N. efforts ..... PL 102–274 Sec 5 206
Relief and recovery program
Report to Congress ..... PL 102–274 Sec 9 210
Relief and rehabilitation program ..... PL 102–274 Sec 4 204
Africa, sub-Saharan-U.S. relations
Africa Food Security Initiative ..... PL 105–385 Sec 101 185
Agricultural research and extensions activities. PL 105–385 Sec 105 187
Bill Emerson Humanitarian Trust Act of 1998. PL 105–385 Sec 211 188
Conflict resolution
Education and training program ..... PL 103–381 Sec 7 193
U.S. plan supporting ..... PL 103–381 Sec 8 194
Demobilization and training program
Foreign aid ..... PL 103–381 Sec 6 193
Development
Findings of Congress ..... PL 105–385 Sec 2 183
U.S. policy ..... PL 105–385 Sec 2 183
Foreign aid
Report to Congress ..... PL 105–385 Sec 301 188
HIV/AIDS
Drugs and medical technology access. EO 13155 521
Findings of Congress ..... PL 106–200 Sec 129 181
U.S. policy goals ..... EO 13155 521
U.S. private sector assistance ..... PL 106–200 Sec 128 180
Microenterprise assistance ..... PL 105–385 Sec 102 185
Nonemergency food assistance programs PL 105–385 Sec 201 188
Orphans
Support and education of ..... PL 106–264 Sec 113 513
Overseas Private Investment Corporation
Development ..... PL 105–385 Sec 104 187
Supporting producer-owned cooperatives PL 105–385 Sec 103 186
Africa, sub-Saharan-U.S. trade relations
Air traffic control equipment donations .. PL 106–200 Sec 126 178
Countries defined ..... PL 106–200 Sec 107 173
Economic cooperation forum ..... PL 106–200 Sec 105 171
Economic development ..... PL 106–200 Sec 102 169

Africa, sub-Saharan-U.S. trade relations—Continued		
Export-Import Bank		
Expanding commitments	PL 106–200 Sec 124	177
Foreign aid		
Additional authorities	PL 106–200 Sec 127	179
HIV/AIDS		
Effect on workforce	PL 106–200 Sec 105(e)	172
Investment policies		
Report to Congress	PL 106–200 Sec 106	173
Overseas Private Investment Corporation		
Initiatives	PL 106–200 Sec 123	176
Policies supported by Congress	PL 106–200 Sec 103	170
Presidential designation		
Eligibility requirements	PL 106–200 Sec 104	170
Trade and development		
Executive branch initiatives	PL 106–200 Sec 122	175
U.S. policy	PL 106–200 Sec 122	175
U.S. trade and investment policies		
Report to Congress	PL 106–200 Sec 106	173
United States and Foreign Commercial Service		
Activities	PL 106–200 Sec 125	177
Africa: Seeds of Hope Act	PL 105–385	183
African Conflict Resolution Act	PL 103–381	191
African Development Foundation		
Sub-Saharan Africa		
Support for economic development	PL 106–200 Sec 127(b)(4)	180
African Famine Relief and Recovery Act of 1985.	PL 99–8	213
African Growth and Opportunity Act	PL 106–200 Sec 101	169
Lesser developed beneficiary countries		
Defined	PL 106–200 Sec 107	173
Agency for International Development		
Foreign aid		
Functions delegated to	45 FR 11655 Sec 2	572
Foreign aid program		
Administration of	EO 12163 Sec 1–2	557
Functions to Overseas Private Investment Corporation.	EO 11579 Sec 4	586
Global Environmental Center	PL 106–309 Sec 402	507
Microenterprise assistance activities		
Support for	PL 106–309 Sec 109	502
Operating expenses		
Supplemental appropriations, 2003	PL 108–11 Ch 5	12
Agricultural Act of 1949	PL 81–439	1426
Agricultural commodities		
(see also Agricultural commodity sales)		
Barter of	PL 100–418 Sec 4309	1478
	PL 95–501 Sec 204	1499
Commodity Credit Corporation		
Credit guarantees	PL 95–501 Sec 202	1493
Export sales financing	PL 95–501 Sec 201	1491
Market promotion program	PL 95–501 Sec 203	1496
Cuban sugar		
Quota allocation restrictions	PL 99–198 Sec 902(c)(1)	1458
Developing countries		
Free enterprise	PL 99–198 Sec 1110(b)	1442
Eggs and egg products		
International trade	PL 100–418 Sec 4606	1484
Export programs		
Limitations on	PL 95–501 Sec 416	1511
Exports		
Commodity Credit Corporation assistance.	PL 95–501 Sec 603	1516
Consultations with Congress	PL 107–171 Sec 3206	1393

Agricultural commodities—Continued
Exports—Continued
Cooperator market development program. PL 99–198 Sec 1126 1454
Embargo protection ..... PL 95–501 Sec 411 1508
Findings ..... PL 100–418 Sec 4101 1473
Market development activities authorization. PL 100–418 Sec 4215 1477
Opportunities for growth ..... PL 107–171 Sec 3206 1393
Policy ..... PL 100–418 Sec 4102 1475
Program controls ..... PL 95–501 Sec 401–404 1506
Promotion of ..... PL 95–501 Sec 103 1489
U.S. maritime industry ..... PL 99–198 Sec 1141 1456
Foreign countries
Procurement for school children ..... PL 107–171 Sec 3107 1389
High-value ..... PL 95–501 Sec 303 1505
Imports
Consultations with U.S. Trade Representative. PL 95–501 Sec 413 1510
Prohibitions on ..... PL 101–624 Sec 1308 1412
Studies on ..... PL 100–418 Sec 4501–4509 .. 1479
International negotiations ..... PL 99–198 Sec 1123 1453
Poland
U.S. donations ..... PL 100–418 Sec 2223 150
Recipient countries
Economic development efforts ..... PL 83–480 Sec 404 1364
Sale of
Establishment of programs ..... EO 12752 Sec 1 1467
Trade
Unfair practices relief ..... PL 95–501 Sec 302 1505
Trade agreements with certain countries PL 100–418 Sec 4203 1475
Trade negotiations policy ..... PL 99–198 Sec 1123 1453
Transported in U.S. ships ..... 49 Stat 1985 Sec 901b 546
Value-added ..... PL 95–501 Sec 303 1505
Agricultural commodity sales
(see also Food aid)
Administrative provisions ..... PL 83–480 Sec 407 1367
Agreements ..... PL 83–480 Sec 404 1364
Appropriations authorization ..... PL 83–480 Sec 412 1372
Commodities available ..... PL 83–480 Sec 401 1360
Commodity Credit Corporation ..... PL 83–480 Sec 406 1366
Consultation with other exporting nations. PL 97–98 Sec 1206 1538
Cotton sales ..... PL 85–931 Sec 8 1465
Currency uses
By private voluntary organizations PL 83–480 Sec 203 1350
Conditions on ..... PL 83–480 Sec 203 1350
Debt forgiveness ..... PL 83–480 Sec 411 1371
Presidential determination ..... PL 83–480 Sec 411(b) 1371
Deferral of payments ..... PL 83–480 Sec 103(d) 1344
Defined ..... PL 83–480 Sec 402 1360
Developing countries
Terms and conditions ..... PL 83–480 Sec 103 1343
Drug control objectives ..... PL 83–480 Sec 414 1373
Eligible organizations
Support for ..... PL 83–480 Sec 202(e) 1348
Export assistance ..... PL 98–258 Sec 501 1461
Exports
Dairy products ..... PL 99–198 Sec 1163 1457
Exports prohibited to Soviet Union
Commodity Credit Corporation purchases. PL 96–494 Sec 206 1518
Price supports ..... PL 96–494 Sec 206 1518
Farmer-to-farmer program ..... PL 99–198 Sec 1107 1441
Food Aid Consultative Group ..... PL 83–480 Sec 205 1352
Food for Development Program ..... PL 83–480 Sec 301 1356
Country eligibility ..... PL 83–480 Sec 301 1356

Agricultural commodity sales—Continued
Foreign aid programs
Coordination with ..... PL 83–480 Sec 413 1373
Foreign currency uses
Agricultural development ..... PL 83–480 Sec 104(c)(2) 1345
Agricultural facilities loans ..... PL 83–480 Sec 104(c)(4) 1345
Business development loans ..... PL 83–480 Sec 104(c)(3) 1345
Debt payments ..... PL 83–480 Sec 104 1344
Fiscal requirements ..... PL 83–480 Sec 104(d) 1348
Private sector trade development .... PL 83–480 Sec 104(c)(6) 1345
Report to Congress ..... PL 81–439 Sec 416(b)(9)(B) .. 1433
Research ..... PL 83–480 Sec 104(c)(7) 1345
Trade development ..... PL 83–480 Sec 104(c)(1) 1345
Trade promotions ..... PL 83–480 Sec 104(c)(5) 1345
Foreign self-help measures ..... PL 83–480 Sec 404 1364
Foreign self-sufficiency ..... PL 99–198 Sec 1107 1441
General provisions ..... PL 83–480 Sec 403 1361
Human rights violations ..... PL 83–480 Sec 403(j) 1363
International agreements
Consultation with Congress ..... PL 97–98 Sec 1202 1537
Least developed countries
Local currency accounts ..... PL 83–480 Sec 305 1357
Local currency uses ..... PL 83–480 Sec 306 1358
Levels of assistance ..... PL 83–480 Sec 204 1351
Using value-added commodities ..... PL 83–480 Sec 204(b) 1352
Micronutrient fortification programs ..... PL 83–480 Sec 415 1373
Multi-year agreements
Conditioned ..... PL 83–480 Sec 404 1364
Operation of review ..... PL 95–113 Sec 1210 1463
Policy direction ..... PL 83–480 Sec 2 1340
Private enterprise ..... PL 83–480 Sec 201 1346
Administration ..... PL 83–480 Sec 207 1353
Currency uses ..... PL 83–480 Sec 203 1350
Prohibitions ..... PL 83–480 Sec 403(a) 1361
Publicity of U.S. role ..... PL 83–480 Sec 403(f) 1362
Purpose of ..... PL 83–480 Sec 2 1340
Recipient countries
Disruptive impact on ..... PL 83–480 Sec 403 1361
Regulatory barriers
Removal of ..... PL 101–624 Sec 1543A 1413
Report to Congress ..... PL 83–480 Sec 407(f) 1370
Suspension of ..... PL 96–494 Sec 208 1519
Trade suspension reserve ..... PL 96–494 Sec 208 1519
United Nations World Food Program ..... PL 83–480 Sec 202(a) 1347
Use in obtaining natural resources ..... PL 96–494 Sec 210 1523
Agricultural Competitiveness and Trade Act of 1988. PL 100–418 Sec 4001 1473
Agricultural Development and Trade Act of 1990. PL 101–624 Sec 1501 1415
Agricultural Programs Adjustment Act of 1984. PL 98–258 1461
Agricultural trade
Agreements
Consultation with Congress ..... PL 107–171 Sec 3210(c) 1396
Emerging markets
U.S. agricultural expertise ..... PL 101–624 Sec 1542 1416
Priorities
Sense of the Senate ..... PL 107–171 Sec 3210(b) 1396
Report to Congress ..... PL 101–624 Sec 1542(e)(2) 1421
Sense of the Senate ..... PL 107–171 Sec 3210 1394
U.S. negotiating objectives ..... PL 99–198 Sec 1123 1453
Agricultural Trade Act of 1978 ..... PL 95–501 1487
Agricultural Trade and Export Policy Commission Act. PL 97–98 Sec 1217 1538
Agricultural Trade and Food Aid, Special Assistant for. PL 99–198 Sec 1113 1450
Agricultural Trade Development and Assistance Act of 1954. PL 83–480 1339

Agricultural Trade Development and Assistance Act of 1954—Continued		
Implementation of	EO 12752	1467
Agricultural Trade Suspension Adjustment Act of 1980.	PL 96–494 Sec 201	1518
Agriculture		
Agricultural Trade Act of 1978		
Definitions	PL 95–501 Sec 102	1487
Purpose	PL 95–501 Sec 101	1487
Agricultural Trade and Export Policy, National Commission on.	PL 97–98 Sec 1219	1539
Appropriations, 2005		
Prohibitions	PL 108–447 Title VII	1438
Center for North American Studies	PL 102–532 Sec 4	267
Developmental assistance to foreign countries.	PL 101–624 Sec 1543	1422
Exports		
Foreign exchange risks	PL 99–198 Sec 1134	1455
Imports		
Pesticide information	PL 100–418 Sec 4701	1547
International programs		
Appropriations authorization	PL 95–113 Sec 1459A	1536
Grants for	PL 95–113 Sec 1459A	1536
Operations and systems		
Improving in foreign countries	PL 83–480 Sec 501	1375
Trade consultations with other countries	PL 99–198 Sec 1123	1453
United States-Mexico Foundation for Science.	PL 95–113 Sec 1459	1535
Agriculture and Food Act of 1981	PL 97–98	1537
Agriculture Export Relief Act of 1998	PL 105–194	351
Agriculture, Department of		
Administrator of the Foreign Agricultural Service.	PL 95–501 Sec 502	1513
Dairy products purchases		
Using Commodity Credit Corporation funds.	PL 83–480 Note	1388
Foreign countries		
Cooperative arrangements	PL 95–113 Sec 1458	1532
	PL 95–113 Sec 1458(a)(2)	1533
International research, extension, and training.	PL 95–113 Sec 1458	1532
International activities	PL 101–624 Sec 1613	1413
International Arid Land Consortium	PL 95–113 Sec 1458(a)(8)	1534
International research, extension, and training.	PL 95–113 Sec 1458	1532
Under Secretary for International Affairs and Commodity Programs.	PL 95–501 Sec 501	1513
Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2005.	PL 108–447	1436
Agriculture, Secretary of		
(see also Agricultural commodity sales)		
Agricultural commodity sales	PL 83–480 Sec 103	1343
Importing agricultural commodities		
Trade consultations	PL 95–501 Sec 414	1510
Trade strategy development	PL 95–501 Sec 103	1489
Agriculture, Uruguay Round Agreement on		
Implementation of commitments		
Report to Congress	PL 95–501 Sec 106	1491
AIDS		
Effect on sub-Saharan African workforce	PL 106–200 Sec 105(e)	172
Global Alliance for Vaccines and Immunizations		
Report to Congress	PL 106–264 Sec 112	513
Airports, foreign		
Sub-Saharan Africa		
Air traffic control equipment donations.	PL 106–200 Sec 126	178

American Aid to Poland Act of 1988 ..... PL 100–418 Sec 2221 150
American University in Bulgaria
Findings and sense of Congress ..... PL 106–570 Sec 503 494
Andrei Sakharov Archives and Human Rights Center
Grant
Appropriations authorization ..... PL 107–246 Sec 7 66
Anglo-Irish Agreement
International Fund
U.S. contributions to ..... PL 99–415 Sec 3 356
U.S. contributions in support of
Conditions and understandings ..... PL 99–415 Sec 5 357
Report to Congress ..... PL 99–415 Sec 6 358
Anglo-Irish Agreement Support Act of 1986 PL 99–415 355
Angola-U.S. relations
Oil products
Purchase prohibition ..... PL 99–661 Sec 316 1267
Petroleum products purchases
Presidential certification ..... PL 102–484 Sec 842 1066
Anti-Drug Abuse Act of 1986 ..... PL 99–570 404
Anti-Drug Abuse Act of 1988 ..... PL 100–690 401
Anti-satellite weapons
Miniature homing vehicle (MHV)
Presidential determination ..... PL 98–94 Sec 1235 1320
Testing
Moratorium on ..... PL 100–180 Sec 208 1239
Policy on ..... PL 98–94 Sec 1235 1320
Apartheid
Comprehensive Anti-Apartheid Act of 1986
Measures repealed ..... PL 103–149 Sec 4 197
Appropriations
Military
Funds transfer limitations ..... 10 USC 2214 636
Working capital funds
Transfer limitations ..... 10 USC 2214 636
Appropriations, fiscal year 2000 and 2001.
Foreign aid programs ..... PL 106–113 465
Appropriations, fiscal year 2003.
Emergency Wartime Supplemental ..... PL 108–11 6
Foreign aid programs ..... PL 108–11 12
Arab-Israeli conflict
(see Middle East)
Arab-U.S. relations
Israel boycott
Department of Defense contracts ..... 10 USC 2410i 668
Arctic Military Environmental Cooperation Program
Cooperative activities ..... PL 106–261 Sec 327 897
Review by Comptroller General ..... PL 108–136 Sec 324 757
Armed forces
(see Military, U.S.)
Arms control
Agreements
Verification of ..... PL 101–510 Sec 3151 1177
PL 101–189 Sec 903 1189
Exports
Technology control ..... PL 101–510 Sec 1701 1166
Independent states of the former Soviet Union. PL 102–511 Sec 501 87
Foreign aid eligibility ..... PL 102–511 Sec 502 87
Nonproliferation and disarmament fund. PL 102–511 Sec 504 89
International activities
Support for ..... PL 102–511 Sec 509 93
International strategy
Report to Congress ..... PL 107–228 Sec 1309 423

Arms control—Continued
Iran-Iraq
U.S. policy ..... PL 102–484 Sec 1602 27
Key Verification Assets Fund
Appropriations authorization, 2003 PL 107–228 Sec 1102 413
Land mines
Export moratorium ..... PL 102–484 Sec 1365 1082
Export moratorium extension ..... PL 103–160 Sec 1423 1046
Missile technology
Multilateral export controls ..... PL 101–510 Sec 1701 1166
Verification and compliance
Appropriations authorization, 2003 PL 107–228 Sec 1101 412
Arms Export Control Act
Cooperative projects ..... 10 USC 2350b 654
Arms export controls
Administration of ..... EO 11958 579
Anti-personnel land mines ..... PL 103–160 Sec 1423 1046
PL 102–484 Sec 1365 1082
Arms exports, U.S.
Dual-use technologies
Report to Congress ..... PL 103–160 Sec 1422 1045
Notice to Congress
Conditions for ..... PL 80–253 Sec 505 489
Arms sales, U.S.
Administration of ..... EO 11958 579
Credit sales
Appropriations authorization, 2003 PL 107–228 Sec 1201 413
Decrement stock ..... 10 USC 2390 667
Defense articles
Export loan guarantees ..... PL 103–160 Sec 1186 1036
Defense Trade Application System
Automation of ..... PL 107–228 Sec 1403 436
Impact on U.S. industrial base ..... PL 98–525 Sec 1522 1308
Prepositioned War Reserve Stocks for United States Forces. 10 USC 2390 667
Prohibited defense articles ..... 10 USC 2390 667
Presidential determination ..... 10 USC 2390 667
Report to Congress ..... 10 USC 2390 667
Taiwan
Non-NATO ally designation ..... PL 107–228 Sec 1206 414
Turkey ..... PL 94–104 Sec 2 479
Arms sales
Belarus
Report to Congress ..... PL 108–347 Sec 7 60
Global code of conduct
Human rights respect ..... PL 106–113 Sec 1262(b)(2) ... 476
Terrorism ..... PL 106–113 Sec 1262(b)(4) ... 476
International controls on
Global code of conduct ..... PL 106–113 Sec 1262(b) 475
Report to Congress ..... PL 106–113 Sec 1262(c) 476
Iraq or Iran
Report to Congress ..... PL 102–484 Sec 1607 29
Sanctions against certain persons .... PL 102–484 Sec 1604 27
Sanctions against foreign countries PL 102–484 Sec 1605 28
Missiles and missile technology
U.S. policy on ..... PL 101–510 Sec 1701 1166
OA–37 Dragonfly
Sense of Congress ..... PL 98–525 Sec 113 1299
Offset policy
Technology transfer conditions ..... PL 100–456 Sec 825 1219
Asia-Pacific area
U.S. Armed Forces in
Findings of Congress ..... PL 105–85 Sec 1225 952
Asia-Pacific Center for Security Studies
Accepting foreign gifts and donations ..... 10 USC 2611 685
Waiver of educational activities costs ..... PL 107–248 Sec 8073 810

Asia-U.S. relations
Regional security
Findings of Congress ..... PL 102–190 Sec 1043 1123
Assistance for International Malaria Control Act. PL 106–570 Sec 1 491
Australia-U.S. relations
Arms sales
Policy of Congress ..... PL 108–375 Sec 1225 716
AWACS
NATO
Authority of Secretary of Defense .... 10 USC 2350e 658
Azerbaijan-U.S. relations
Foreign aid
Restrictions on ..... PL 102–511 Sec 907 103

B

Balance of payments
Reserved foreign currencies available ..... 31 USC 5303 543
Balanced Budget and Emergency Deficit Control Act of 1985
Amendments to ..... PL 101–508 Part I 118
Baltic States-U.S. relations
Nonlethal defense articles
Eligibility for ..... PL 102–511 Sec 906 102
Bangladesh Disaster Assistance Act of 1988 PL 100–576 352
Bangladesh-U.S. relations
Disaster assistance
Report to Congress ..... PL 100–576 Sec 5 354
Banks, international
(see individual institutions)
(see International financial institutions)
(see Multilateral development banks (MDBs))
(see World Bank)
Belarus Democracy Act of 2004 ..... PL 108–347 57
Belarus-U.S. relations
Arms sales
Report to Congress ..... PL 108–347 Sec 7 60
Democracy promotion
Findings of Congress ..... PL 108–347 Sec 2 57
Foreign aid ..... PL 108–347 Sec 2 58
Multilateral cooperation
Sense of Congress ..... PL 108–347 Sec 6 60
Radio broadcasting to ..... PL 108–347 Sec 4 59
Sanctions
Sense of Congress ..... PL 108–347 Sec 5 59
Berlin
(see Germany-U.S. relations)
Bermuda-U.S. relations
Armed Forces in
Environmental effects ..... PL 105–85 Sec 346 926
Bill Emerson Humanitarian Trust Act ..... PL 96–494 Title III 1526
Bill Emerson Humanitarian Trust Act of 1998. PL 105–385 Subtitle B 188
Binary chemical munitions
Prohibition on procurement ..... PL 98–525 Sec 111 1298
Biological diversity
International cooperation to protect ..... PL 100–530 539
Biological weapons
Countries developing
Identifying ..... PL 104–106 Sec 1323(c) 994
Illegal importation prevention
Presidential certification ..... PL 104–201 Sec 229 964
National emergency
Secretary of Defense ..... 10 USC 382 617

Biological weapons—Continued		
Technology transfer		
Report to Congress	PL 102–190 Sec 1097	1136
Biotechnology and agricultural trade program		
Established	PL 101–624 Sec 1543A	1413
Bob Stump National Defense Authorization Act for Fiscal Year 2003.	PL 107–314 Sec 1	771
Bolivia-U.S. relations		
Drug control		
Additional eradication resources	PL 105–277 Sec 823	367
Foreign aid	PL 105–277 Sec 823	367
Supplemental appropriations, 2000	PL 106–246 Title III	216
Bosnia-Herzegovina-U.S. relations		
Arms embargo		
International policy on	PL 103–337 Sec 1404(e)	1028
Sense of Congress	PL 103–337 Sec 1404	1027
U.S. policy on	PL 103–337 Sec 1404(d)	1028
Conflict		
Sense of Congress	PL 103–337 Sec 1404	1027
Covered U.S. forces		
Report to Congress	PL 105–85 Sec 1204	942
Peacekeeping deployment		
Report to Congress	PL 103–337 Sec 1402	1025
Political and military situation		
Report to Congress	PL 105–85 Sec 1205	942
Sense of Congress	PL 104–201 Sec 1083	976
U.S. Armed Forces in		
Definitions	PL 105–85 Sec 1206	943
Findings of Congress	PL 105–261 Sec 1201	904
	PL 105–85 Sec 1201	939
Sense of Congress	PL 105–261 Sec 1201	905
U.S. ground combat forces		
Withdrawal of	PL 105–85 Sec 1203	940
Bosnia-U.S. relations		
Peacekeeping operations, FY 1999		
Appropriations authorization	PL 106–261 Sec 1004	900
Funding limitation	PL 106–261 Sec 1004(c)	825
Peacekeeping operations, FY 2000		
Funding limitation	PL 106–65 Sec 1006	855
Peacekeeping operations, FY 2001		
Funding limitation	PL 106–398 Sec 1005	825
Peacekeeping operations, FY 2002		
Funding limitation	PL 107–107 Sec 1005	815
Bottom-Up Review		
Korean peninsula		
Military planning	PL 103–337 Sec 1323	1021
Boycotts, foreign		
Against U.S. allies		
U.S. policy on	PL 102–190 Sec 1075	1132
Secondary Arab boycott of Israel	10 USC 2410i	668
Broadcasting		
Capital improvements		
Appropriations authorization, FY 2003.	PL 106–286 Sec 701	344
Broadcasting, international		
Operations		
Appropriations authorization, FY 2003.	PL 106–286 Sec 701	344
To Belarus	PL 108–347 Sec 4	59
Brooke-Alexander Amendment		
Waiver of	PL 102–274 Sec 7(b)	209
	PL 101–623 Sec 4(d)	385
	PL 101–231 Sec 6	395
Budget Enforcement Act of 1990		
Balanced Budget and Emergency Deficit Control Act of 1985		
Amending	PL 101–508 Sec 13001	118

Bulgaria-U.S. relations		
American University in		
Findings and sense of Congress	PL 106–570 Sec 503	494
Bumpers Amendment		
Waiver of	PL 101–231 Sec 14	400
Burden sharing		
Allied countries		
Efforts to increase	PL 105–85 Sec 1221	947
	PL 104–201 Sec 1084	977
Report to Congress	PL 105–85 Sec 1221	947
	PL 104–201 Sec 1084(c)	978
Sense of Congress	PL 107–107 Sec 1214	819
	PL 101–510 Sec 1455	1161
Designated countries and organizations		
Contributions from	10 USC 2350j	663
Discussions with mutual defense alliances.	PL 100–456 Sec 1008	1223
Findings of Congress	PL 103–160 Sec 1401	1038
Host nations		
Revised agreements	PL 102–484 Sec 1301	1070
Japan		
U.S. defense expenditures in	PL 100–180 Sec 1011	1252
Sense of Congress	PL 103–160 Sec 1401(b)	1040
Buy American Act		
Military procurement		
Policy on	PL 93–365 Sec 707	1327
Waiver of		
Limitation on authority	PL 102–190 Sec 833	1120
	PL 101–189 Sec 823	1185

C

Cambodia-U.S. relations		
Politics and government		
Findings and sense of Congress	PL 105–85 Sec 1231	959
Canada-U.S. relations		
Agriculture		
Center for North American Studies	PL 102–532 Sec 4	267
Former defense sites		
Environmental cleanup	PL 106–261 Sec 322	916
Cargo preference law requirements		
Sales of fresh fruit		
Exemptions from	PL 83–480 Note	1388
Caribbean area-U.S. relations		
Drug control		
Supplemental appropriations, 2000	PL 106–246 Title III	216
Enterprise for the Americas Facility		
Establishing	PL 83–480 Sec 602	270
Free trade zone		
Effect on United States	PL 102–532 Sec 5	268
Military training		
Inter-American Air Forces Academy	10 USC 9415	691
Caribbean Basin countries		
Farmer-to-farmer program		
Establishing	PL 83–480 Sec 501(b)	1375
Center for Disaster Management and Humanitarian Assistance		
Payment authorization	PL 107–248 Sec 8093	810
Center for Excellence in Disaster Management and Humanitarian Assistance.	10 USC 182	607
Center for North American Studies		
Appropriations authorization	PL 102–532 Sec 4	267
Center for the Study of Chinese Military Affairs		
Establishment of	PL 106–65 Sec 914	852

Central America-U.S. relations		
Civilian victims		
Humanitarian assistance	PL 101–215 Sec 1	284
Military training		
Inter-American Air Forces Academy	10 USC 9415	691
Peace and democracy		
Advancement of	PL 100–276	285
Sapoa Agreement	PL 100–276 Sec 2	285
U.S. Armed Forces in		
Sense of Congress	PL 98–525 Sec 310	1299
Central and South America-U.S. relations		
Drug control		
Supplemental appropriations, 2000	PL 106–246 Title III	216
Central European Small Business Enterprise Development Commission		
Established	67 Stat 232	160
Report to Congress	67 Stat 232	161
Chad-U.S. relations		
Dafur crisis		
Humanitarian aid	PL 108–287 Ch 2	726
Chemical agents		
Training use		
Transfer to the Attorney General	PL 106–65 Sec 1065	867
Chemical and biological weapons		
Emergency response to		
Testing and improving	PL 107–314 Sec 3154	789
Chemical demilitarization		
Cryofracture program		
Appropriations authorization	PL 101–189 Sec 173(b)	1173
Chemical Warfare Review Commission	PL 98–525 Sec 1511	1307
Chemical weapons		
Assembled Chemical Weapons Assessment program		
Management of	PL 105–261 Sec 142	888
BIGEYE bomb		
Production restrictions	PL 99–145 Sec 1411(d)	1280
Binary chemical munitions		
Conditions for use of funds	PL 99–145 Sec 1411	1279
Defense against		
Policies and doctrines	PL 105–261 Sec 247	891
Demilitarization program		
Appropriations authorization, FY 1992.	PL 102–190 Sec 107	1115
Appropriations authorization, 1989	PL 100–456 Sec 105	1216
Revision of	PL 100–180 Sec 125	1237
Destruction of		
Alternative technologies for	PL 105–261 Sec 142	888
Appropriations	PL 108–287 Title VI	727
Appropriations authorization	PL 107–314 Sec 106	771
	PL 107–107 Sec 106	812
	PL 106–65 Sec 107	847
	PL 105–261 Sec 107	888
	PL 105–85 Sec 107	925
	PL 104–201 Sec 107	964
	PL 103–337 Sec 106	1003
	PL 103–160 Sec 107	1032
	PL 102–484 Sec 107	1063
	PL 102–190 Sec 107	1115
	PL 101–510 Sec 107	1144
	PL 101–189 Sec 106	1182
	PL 100–180 Sec 107	1237
Disposal of		
International consultation exchange program.	PL 102–484 Sec 178	1064
Sense of Congress	PL 102–484 Sec 178	1064
Eliminating		
Negotiations on	PL 97–252 Sec 1124	1324

Chemical weapons—Continued
European retrograde program
Limitations on ..... PL 101–189 Sec 172 1182
Germany
Transfer to Johnston Island ..... PL 101–510 Sec 364 1147
Illegal importation prevention
Presidential certification ..... PL 104–201 Sec 229 964
Iraq
Violation of United Nations Security Council Resolution 687. PL 102–190 Sec 1095 1135
Lethal agents and munitions
Destruction of ..... PL 107–314 Sec 106 771
PL 107–107 Sec 106 812
PL 106–65 Sec 107 847
PL 103–160 Sec 107 1032
PL 102–484 Sec 107 1063
PL 102–190 Sec 107 1115
PL 99–145 Sec 1412 1281
Report to Congress ..... PL 99–145 Sec 1412(g) 1284
Strategic plan for U.S. stockpile destruction. PL 99–145 Sec 1412(d) 1283
PL 106–65 Sec 141 848
National emergency
Secretary of Defense ..... 10 USC 382 617
NATO members posture
Report to Congress ..... PL 99–145 Sec 1411(g) 1280
Prohibition of
Compliance monitoring program ..... PL 100–456 Sec 208 1216
Stockpile
Destruction of ..... PL 107–314 Sec 141 772
Report to Congress ..... PL 107–314 Sec 141(b) 772
Technology transfer
Report to Congress ..... PL 102–190 Sec 1097 1136
Testing
Report to Congress ..... PL 99–145 Sec 1413 1287
U.S. stockpile in Europe
Conditions for removal from ..... PL 100–180 Sec 126 1238
Chemical Weapons Convention
U.S. compliance with
Findings of Congress ..... PL 107–228 Sec 1605 440
OPCW designated laboratories ..... PL 107–228 Sec 1605 440
United States National Authority
Securing OPCW designation ..... PL 107–228 Sec 1605(b) 441
Children
Foreign countries
Reducing hunger ..... PL 107–171 Sec 3107 1389
Health programs
Immunizations ..... PL 99–198 Sec 1112(b) 1450
Soldiers
Colombia ..... PL 106–246 Title III 216
Sense of Congress ..... PL 106–398 Sec 1236 836
Chile-U.S. relations
Reconstruction of ..... PL 86–735 Sec 3 292
China, Republic of
(see Taiwan)
China, People's Republic of-U.S. relations
Joint Defense Conversion Commission
Report to Congress ..... PL 104–106 Sec 1343 998
China-U.S. relations
Chinese military companies
IEEPA authorities ..... PL 106–261 Sec 1237 916
Commercial and labor rule of law programs
Establishing ..... PL 106–286 Sec 511 342
Congressional-Executive Commission on the People's Republic of China. PL 106–286 Sec 301 331

China-U.S. relations—Continued
Espionage activities
Report to Congress ..... PL 106–65 Sec 3151 885
Exports
Agricultural commodities ..... PL 99–198 Sec 1106 1441
Human rights
Monitoring compliance with ..... PL 106–286 Sec 301 331
Military capability
Report to Congress ..... PL 105–85 Sec 1226 954
Military power
Report to Congress ..... PL 106–65 Sec 1202 871
Military-to-military contacts and exchanges
Limitation on ..... PL 106–65 Sec 1201 869
National security implications
Review of ..... PL 106–398 Sec 1238 839
Nuclear weapons programs
Funding prohibition ..... PL 104–201 Sec 3137 979
POW/MIA Task Force ..... PL 103–337 Sec 1033 1008
Science and technology agreement of 1979
Implementation of ..... PL 107–314 Sec 1207 780
Significant technology transfers
Report to Congress ..... PL 107–107 Sec 1223(b) 820
Task force to monitor forced or prison labor products
Report to Congress ..... PL 106–286 Sec 505 341
China-U.S. trade agreements
Enforcing compliance with
Appropriations authorization ..... PL 106–286 Sec 413(b) 338
China-U.S. trade relations
Agreements
Findings of Congress ..... PL 106–286 Sec 411 337
Promoting compliance with ..... PL 106–286 Sec 411 337
PL 106–286 Sec 412 338
Findings of Congress ..... PL 106–286 Sec 202 328
Monitoring compliance with
Appropriations authorization ..... PL 106–286 Sec 413(b) 338
Products of forced or prison labor
Task force to monitor ..... PL 106–286 Sec 501 340
U.S. policy ..... PL 106–286 Sec 202–203 328
World Trade Organization membership
Review of commitments ..... PL 106–286 Sec 401 337
Civil Service
Peace Corps personnel
Appointment to ..... EO 11103 1610
Civilian Career Service
Former Peace Corps personnel ..... EO 11103 1610
Claude and Mildred Pepper Scholarship Program
Appropriations authorization ..... PL 102–138 Sec 210(c) 109
Emerging democracies
Programs for students ..... PL 102–138 Sec 210(a) 109
Grants to ..... PL 102–138 Sec 210(b) 109
Clement J. Zablocki Memorial Outpatient Facility
Funding authorization ..... PL 98–266 153
Coast Guard
Drug control
Appropriations from Department of Defense. PL 100–180 Sec 1242 1259
Drug-interdiction assistance ..... PL 99–145 Sec 1421 1288
Personnel
Assignment to naval vessels ..... 10 USC 379 616
Cochran Fellowship Program
Establishing ..... PL 101–624 Sec 1543 1422

Cold War		
Statutory provisions		
Amendments and repeals of	PL 103–199 Sec 101	68
Cold War, Commission on Victory in		
Established	PL 106–65 Sec 1053(e)	866
Collective security		
(see Mutual defense)		
Colombia-U.S. relations		
Armed Forces		
Certification to Congress	PL 106–246 Sec 3201	217
Child soldiers demobilization		
Supplemental appropriations, 2000	PL 106–246 Title III	216
Combat operations		
Limitation on U.S. personnel participation.	PL 108–136 Sec 1023(c)	743
Counter-drug activities		
Appropriations authorization, FY 2005.	PL 108–375 Sec 1021	697
Participation of U.S. personnel	PL 108–375 Sec 1021(c)–(d)	697
Counter-terrorism campaign		
Appropriations authorization, FY 2004.	PL 108–136 Sec 1023	743
Drug control		
Additional eradication resources	PL 105–277 Sec 821	366
Appropriations authorization	PL 105–85 Sec 1033	930
Appropriations authorization, 2004	PL 108–136 Sec 1023	743
Foreign aid	PL 105–277 Sec 821	366
Drug control strategy		
Report to Congress	PL 106–246 Sec 3202	219
Foreign aid		
Certification to Congress	PL 106–246 Sec 3201	217
	PL 106–246 Sec 3207	225
Helicopters for Army and Police		
Supplemental appropriations, 2000	PL 106–246 Title III	216
Human rights		
Certification to Congress	PL 106–246 Sec 3201	217
Military aid		
Waiver of costs	PL 106–280 Sec 710	464
Persons aiding paramilitary groups		
Visa denial	PL 106–246 Sec 3205	225
Plan Colombia		
Limitations on support for	PL 106–246 Sec 3204	220
Population planning		
Funding limitation	PL 106–246 Sec 3206	225
Terrorist organizations in		
Report to Congress	PL 108–375 Sec 1021(e)	698
U.S. military activities in		
Report to Congress	PL 106–65 Sec 1025	859
U.S. military personnel		
Assignment limitation	PL 106–246 Sec 3204(b)	222
Assignment limitation waiver	PL 106–246 Sec 3204(c)	223
Colombo Plan Council for Technical Cooperation		
U.S. membership in	PL 86–108 Sec 502	483
Combating Proliferation of Weapons of Mass Destruction Act of 1996		
Report to Congress	PL 107–314 Sec 1209	782
Commerce, Department of		
Foreign aid program		
Administration of	EO 12163 Sec 1–502	559
Commerce, Secretary of		
Chemical Weapons Convention		
Authority	EO 13346 Sec 2(b)(b)	595
Commodities, U.S.		
To foreign countries		
Commodity Credit Corporation	49 Stat 1985 Sec 901a	545
Transported in U.S. ships	49 Stat 1985 Sec 901b	546

Commodities, equipment, or materials, U.S.
To foreign countries ..... 49 Stat 1985 Sec 901(b)(1) 544
Commodity Credit Corporation
Agricultural commodities
Market promotion program ..... PL 95–501 Sec 203 1496
Unfair trade practices ..... PL 95–501 Sec 301 1502
Agricultural commodity sales ..... PL 83–480 Sec 406 1366
Minimum prices ..... PL 83–480 Note 1388
Agricultural exports
Program controls ..... PL 95–501 Sec 401–404 1506
Direct credit sales program ..... PL 95–501 Sec 201 1491
Funding levels ..... PL 95–501 Sec 211 1500
Eligible commodities
Funding of ..... PL 99–198 Sec 1110(e) 1444
Emerging democracies
Export credit guarantees ..... PL 101–624 Sec 1542 1416
Export credit guarantee program ..... PL 95–501 Sec 202 1493
Export guarantee program
Appropriations, 2005 ..... PL 108–447 Title V 1437
Exports
Transported in U.S. ships ..... 49 Stat 1985 Sec 901a 545
Commonwealth of Independent States-U.S. relations
Nuclear weapons
Information exchanges ..... PL 102–484 Sec 3151(b) 1109
Plutonium production
Cessation of ..... PL 102–484 Sec 3151 1108
Communications, international
U.S.-Former Soviet Union link ..... PL 99–85 1331
Communism
Victims of
Monument to honor ..... PL 103–199 Sec 905 71
Compact of Free Association
Department of Defense
Humanitarian and civic assistance .. PL 108–287 Sec 8009 737
Computers
Exports of
Report to Congress ..... PL 105–85 Sec 1212 944
PL 105–85 Sec 1214 947
Study by General Accounting Office PL 105–85 Sec 1214 947
High performance
Export controls ..... PL 105–85 Sec 1211 944
Sales to certain countries
Report to Congress ..... PL 105–85 Sec 3157 961
Congress
(see also Reports to Congress)
Travel abroad
Foreign currencies used for ..... PL 83–665 Sec 502 485
Local currencies ..... PL 83–665 Sec 502 485
Congressional Hunger Fellows Act of 2002 ... PL 107–171 Sec 4404 1397
Congressional Hunger Fellows Program
Established ..... PL 107–171 Sec 4404(b) 1397
Report to Congress ..... PL 107–171 Sec 4404(h) 1403
Congressional-Executive Commission on the People's Republic of China
Appropriations authorization ..... PL 106–286 Sec 307 336
Human rights monitoring ..... PL 106–286 Sec 301 331
Membership ..... PL 106–286 Sec 303 334
Report to Congress ..... PL 106–286 Sec 302(g) 333
Contracts
Defense contractors
Transactions with terrorist countries. PL 103–160 Sec 843 1033
Controlled Substances Trafficking Prohibition Act. PL 105–277 Subtitle G 374

Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed To Be Excessively Injurious or to Have Indiscriminate Effects.	PL 103–160 Sec 1423(a)(5)	1046
Findings of Congress	PL 102–484 Sec 1365(a)(4)	1083
Convention on the Physical Protection of Nuclear Materials		
Sense of Congress	PL 107–314 Sec 3161	793
Conventional Forces in Europe Treaty Implementation Act of 1991.	PL 102–228	106
Cooperative agreements		
Allied countries		
Communications support	10 USC 2350a	650
Communications support services	10 USC 2350f	659
Foreign contributions	10 USC 2350i	662
Military airlift	10 USC 2350c	656
Real property or services	10 USC 2350g	661
Research and development projects	10 USC 2350a	650
Central Europe air defenses		
Equipment disposal	PL 105–85 Sec 1064	938
Foreign countries		
Testing defense equipment	10 USC 2350l	666
	PL 107–107 Sec 1213	818
NATO		
Logistic support	10 USC 2350d	657
Cooperative research and development programs		
Independent states of the former Soviet Union.	PL 102–484 Sec 1441	1089
Japan	PL 101–510 Sec 1454(c)	1160
Non-NATO allies		
Appropriations authorization	PL 100–180 Sec 207	1239
Russian Federation		
Terrorism protection	PL 107–314 Sec 3155	789
Cooperative threat reduction		
Department of Defense		
Appropriations authorization, FY 1997.	PL 104–201 Sec 301	966
Appropriations authorization, FY 1998.	PL 105–85 Sec 301	925
Appropriations authorization, FY 2004.	PL 108–136 Sec 301(19)	740
Cooperative threat reduction programs		
Appropriations authorization, FY 1996	PL 104–106 Sec 301(a)(18)	986
Appropriations authorization, FY 2000	PL 106–65 Sec 301(23)	850
Appropriations authorization, FY 2002	PL 107–107 Sec 301(a)(23)	813
Appropriations authorization, FY 2005	PL 108–375 Sec 301(19)	694
Corporation for National and Community Service		
Established	PL 101–610 Sec 191	1602
Counter-Narcotics, President's Council on		
Establishment of	PL 105–277 Sec 709	376
Counter-terrorism activities		
Law enforcement agencies		
Department of Defense support	PL 108–136 Sec 1022	743
Counterproliferation Support Program		
Appropriations authorization	PL 104–201 Sec 231	964
	PL 104–106 Sec 218	985
Countries, foreign-U.S. relations		
Armed conflict		
Multinational economic embargoes	PL 106–65 Sec 1231	878
Chemical weapons		
Disposal information technology exchanges.	PL 102–484 Sec 178	1064
Coalition liaison officers		
Services and support for	PL 107–314 Sec 1201	776

Countries, foreign-U.S. relations—Continued
Commodity Credit Corporation
Export credit guarantees ..... PL 101–624 Sec 1542 1416
Defense cost-sharing agreements ..... PL 102–190 Sec 1046 1127
Development
Microenterprise institutions ..... PL 106–309 Sec 103 499
Emerging market
Farmer-to-farmer program ..... PL 83–480 Sec 501(b) 1375
Enhancing U.S. agricultural exports to
Programs for ..... PL 101–624 Sec 1542 1416
Farmer-to-farmer program
Establishing ..... PL 83–480 Sec 501(b) 1375
Forced labor products
Memoranda of Understanding ..... PL 105–261 Title XXXVII 922
Foreign critical technology
Monitoring and assessment program 10 USC 2518 672
Former U.S. military installations
Environmental contamination ..... PL 106–65 Sec 329 885
Improving accountability ..... PL 106–309 Sec 202 503
International military education and training. PL 107–228 Sec 1223(b) 415
Logistical support in Iraq
Reimbursement for ..... PL 108–11 Sec 1310 11
Malaria
Eradication assistance ..... PL 106–570 Sec 103 492
Findings of Congress ..... PL 106–570 Sec 102 491
Middle income
Farmer-to-farmer program ..... PL 83–480 Sec 501(b) 1375
Military aid
Foreign military financing grants .... PL 107–228 Sec 1223(a) 414
Military-based satellites
Report to Congress ..... PL 102–484 Sec 1363 1080
Military-to-military contacts ..... 10 USC 168 606
PL 107–228 Sec 1223(c) 415
Naval vessels
Grant and sales transfers ..... PL 107–228 Sec 1701 442
Non-proliferation control capabilities
Foreign aid, 2003 ..... PL 107–228 Sec 1302 418
PL 103–160 Sec 1503 1052
Nuclear test monitoring equipment
Furnishing ..... PL 106–398 Sec 1203 831
Polychlorinated biphenyl wastes
Controlled by Department of Defense. PL 106–261 Sec 324 916
Protection of intellectual property rights
Sense of Congress ..... PL 101–189 Sec 852 1186
Refugees
International mine clearing efforts .. PL 102–484 Sec 1364 1081
Russian proliferation of weapons of mass destruction
Report to Congress ..... PL 107–314 Sec 1206 779
School children
Providing agricultural commodities PL 107–171 Sec 3107 1389
Security forces
Training prohibition ..... PL 108–287 Sec 8076 732
Training prohibition waiver ..... PL 108–287 Sec 8076(c) 732
Tied aid practices
Combating ..... PL 102–511 Sec 306 83
U.S. military in
Environmental preservation activities. PL 105–85 Sec 347 926
U.S. military installations
Environmental cleanup ..... PL 106–261 Sec 321 916
Weapons technology transfer
Report to Congress ..... PL 102–190 Sec 1097 1136
Coverdell, Paul D.
Peace Corps Director
Findings of Congress ..... PL 106–570 Sec 602 1585

Crime Control Act of 1990	PL 101–647 Sec 1	389
Cuba-U.S. relations		
Aliens		
Exclusion from the United States	PL 104–114 Title IV	264
Brothers to the Rescue		
Attack on	PL 104–114 Sec 116	244
Business transactions		
Prohibitions on	PL 102–484 Sec 1706	1105
Cuban people		
Direct mail to	PL 102–484 Sec 1705(f)	1105
Exports of medicines and medical supplies.	PL 102–484 Sec 1705(c)	1103
Food donations	PL 102–484 Sec 1705(b)	1103
Support for	PL 102–484 Sec 1705	1103
Telecommunications services and facilities.	PL 102–484 Sec 1705(e)	1104
Democracy		
U.S. policy on	PL 104–114 Sec 201	246
Democratic government		
Determining	PL 104–114 Sec 206	254
U.S. policy on	PL 102–484 Sec 1708	1106
Economic assistance		
Plan coordination	PL 104–114 Sec 203	250
Plan for providing	PL 104–114 Sec 202	247
Report to Congress	PL 104–114 Sec 202(g)	249
Embargo of		
Enforcement of	PL 104–114 Sec 102	235
Termination of	PL 104–114 Sec 204	251
Extradition of criminals to the United States.	PL 104–114 Sec 113	243
Findings of Congress	PL 102–484 Sec 1702	1100
Human and democratic rights groups		
Support for	PL 104–114 Sec 109	239
Juragua nuclear power plant		
Foreign assistance prohibition	PL 104–114 Sec 111	241
National security		
Assessing Cuban threat to	PL 105–85 Sec 1228	956
News bureaus		
Establishment and exchange of	PL 104–114 Sec 114	243
Opposition to membership in international financial institutions.	PL 104–114 Sec 104	236
Outstanding property claims		
Settlement of	PL 104–114 Sec 207	254
Prohibition on imports and exports	PL 104–114 Sec 110	240
Property rights of U.S. nationals		
Protection of	PL 104–114 Title III	255
Reaffirmation of policy toward	PL 98–525 Sec 1543	1312
Reinstitution of general licenses	PL 104–114 Sec 112	243
Sanctions against		
Strengthening	PL 104–114 Sec 101	234
Sugar import quotas	PL 99–198 Sec 902(c)(1)	1458
Sugar imports		
Report to Congress	PL 99–198 Sec 902(c)(2)	1458
Television broadcasting to	PL 104–114 Sec 107	238
Transition government		
Determining	PL 104–114 Sec 205	252
U.S. policy on	PL 102–484 Sec 1707	1106
U.S. policy on	PL 102–484 Sec 1703	1101
U.S. policy toward		
Findings of Congress	PL 104–114 Sec 2	228
United States-Cuba Council	PL 104–114 Sec 203(b)	250
Cuban Democracy Act of 1992	PL 102–484 Sec 1701	1100
Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996.	PL 104–114	227
Culebra		
Military, U.S.	PL 93–365 Sec 704	1327

Currencies, foreign
(see also Agricultural commodity sales)
Agreements on use of
Report to Congress ..... PL 83–480 Note 1387
Agricultural Trade Development Act
Accounting for ..... EO 12752 Sec 2 1467
Appropriations acts ..... PL 87–125 Sec 508 542
Expenditure by agencies ..... 31 USC 1306 541
Federal agencies use
Reimbursement of Treasury note ..... PL 83–480 Note 1344
Fluctuations in
Peace Corps account ..... PL 87–293 Sec 16 1575
Former Soviet Union
Currency stabilization fund ..... PL 102–511 Sec 1004(b) 104
Peace Corps use ..... PL 87–293 Sec 17 1576
Poland
Availability of ..... PL 100–418 Sec 2224 151
Salaries of U.S. Government employees abroad. PL 83–665 Sec 523(d) 488
Travel abroad
Congressional Members and staffs .. PL 83–665 Sec 502 485
U.S. balance of payments position ..... 31 USC 5303 543
Cyprus
Settlement of conflict ..... PL 94–104 Sec 2 479
Czechoslovakia
Central European Small Business Enterprise Development Commission. 67 Stat 232 160
Small business
Management and technical assistance. 67 Stat 232 160

D

Dairy surplus
Overseas donations ..... PL 81–439 Sec 416(b) 1427
Debt reduction
Zimbabwe
U.S. review of ..... PL 107–99 Sec 4(b) 166
Debts
Foreign currencies from agricultural commodity sales. PL 83–480 Sec 104 1344
Debts, foreign
Agricultural commodity sales
Debt forgiveness ..... PL 83–480 Sec 411 1371
Bolivia
Debt-for-drugs exchanges ..... PL 101–623 Sec 17 387
PL 101–231 Sec 10 398
Cancellation of ..... PL 106–113 Sec 501 524
Annual reports to Congress ..... PL 106–113 Sec 501(f) 525
Eligible countries ..... PL 106–113 Sec 501(d) 524
Exceptions ..... PL 106–113 Sec 501(f) 525
Colombia
Debt-for-drugs exchanges ..... PL 101–623 Sec 17 387
Debt reduction
Multilateral debt relief ..... PL 106–113 Sec 503 526
Debt relief
Findings of Congress ..... PL 106–200 Sec 121 174
Debt-for-drugs exchanges ..... PL 101–623 Sec 17 387
Debt-for-nonproliferation exchange
Russian Federation ..... PL 107–228 Sec 1312(a)(9) ... 425
Enterprise for the Americas Facility
Debt reduction ..... PL 83–480 Sec 604 271
Peru
Debt-for-drugs exchanges ..... PL 101–623 Sec 17 387
Qualified debt
Defined ..... PL 83–480 Sec 619 278

Debts, foreign—Continued
Relief of
Notifying Congress ..... PL 83–480 Sec 618 278
Russian Federation
Annual determination and certification. PL 107–228 Sec 1317(b) 429
Presidential waiver ..... PL 107–228 Sec 1317(c) 429
Reducing obligations to United States. PL 107–228 Sec 1314 426
Sale to eligible countries ..... PL 83–480 Sec 616 276
Sale, reduction or cancellation
Facilitating debt swaps ..... PL 83–480 Sec 617 277
Defense and National Security, National Commission on
Establishment of ..... PL 101–511 Sec 8104 1209
Report to Congress ..... PL 101–511 Sec 8104 1209
Defense articles
Appropriations authorization
Credit sales ..... PL 106–280 Sec 101 449
Secretary of Defense
Loan guarantees ..... 10 USC 2540 675
Stockpiles
Transfers to Israel ..... PL 106–280 Sec 112 450
Transfer of
Limitations on ..... PL 108–287 Sec 8064 730
Transfers to Israel
Congressional notification ..... PL 106–280 Sec 112(c) 451
Defense Conversion, Reinvestment, and Transition Assistance Act of 1992. PL 102–484 Sec 4001 1111
Defense Cooperation Account
Appropriations authorization from ..... PL 102–25 Sec 203 35
Appropriations authorization, FY 1991 and 1992. PL 102–25 Sec 101 33
Establishment of ..... 10 USC 2608 683
Defense Economic Adjustment, Diversification, Conversion, and Stabilization Act of 1990. PL 101–510 Sec 4001 1178
Defense Emergency Response Fund
Transfer of funds from ..... PL 108–11 Sec 1313 12
Defense industrial base
Foreign source procurement
Report to Congress ..... PL 102–190 Sec 831 1119
Defense Language Institute Foreign Language Center
Arabic language program
Expansion of ..... PL 107–107 Sec 306 813
Defense offsets
Declaration of policy ..... PL 106–113 Sec 1242(b) 470
Findings of Congress ..... PL 106–113 Sec 1242 469
Multilateral treaty
Review of by President ..... PL 106–113 Sec 1248 474
Review commission established ..... PL 106–113 Sec 1247 471
Sense of Congress ..... PL 106–113 Sec 1242 469
Treaty feasibility
Report to Congress ..... PL 106–113 Sec 1248(b) 474
Defense Offsets Disclosure Act of 1999 ..... PL 106–113 Sec 1242 469
PL 106–113 Sec 1241 469
PL 106–113 Subtitle D 528
Definitions ..... PL 106–113 Sec 1243 470
Defense, Department of
Appropriations
General provisions ..... PL 101–511 Title VIII 1209
Transfer of funds ..... 10 USC 2214 636
10 USC 2215 636
Appropriations authorization, FY 1993
Limitations on ..... PL 102–484 Sec 4 1063
Appropriations, 2005
F–22 license or sale prohibitions ..... PL 108–287 Sec 8074 731

Defense, Department of—Continued
Appropriations, 2005—Continued
North Korea assistance restrictions PL 108–287 Sec 8051 730
Transfer restrictions PL 108–287 Sec 8057 730
Transfer to Department of State PL 108–287 Sec 8067 731
Arctic Military Environmental Cooperation Program
Activities PL 106–261 Sec 327 897
Asia-Pacific Center for Security Studies 10 USC 2611 685
Authorizations, FY 1994
Transfer limitations PL 103–160 Sec 1101(b) 1034
Ballistic Missile Defense Organization
Funding activities of PL 105–261 Sec 3132 919
Biological pathogens
Export licenses review PL 104–106 Sec 1323 993
Budget justification
Missile Defense Agency 10 USC 223 609
Programs combating terrorism 10 USC 229 610
Civic Action Teams
Micronesia PL 108–287 Sec 8009 728
Trust Territories of the Pacific Islands. PL 108–287 Sec 8009 728
Civilian personnel reduction in Europe PL 101–189 Sec 314 1184
Compact of Free Association PL 108–287 Sec 8009 737
Contingency operations
Budget justification documents PL 107–248 Sec 8132 810
Contract proposals
NATO members eligibility 10 USC 2349 647
Restrictions on 10 USC 2327(b) 639
Contracts
Arab boycott of Israel 10 USC 2410i 668
Waivers 10 USC 2327(c) 639
Cooperative threat reduction
Appropriations authorization, FY 1999. PL 105–261 Sec 301 894
Appropriations authorization, FY 2000. PL 106–65 Sec 301(23) 850
Appropriations authorization, FY 2001. PL 106–398 Sec 301 823
Program transfer PL 107–314 Sec 3151 786
Counter-terrorism activities of law enforcement agencies
Support for PL 108–136 Sec 1022 743
Defense build down
Findings of Congress PL 102–484 Sec 4101 1111
Defense contracts
Foreign government interest disclosure. 10 USC 2327(a) 639
Department of Defense Appropriation Authorization Act, 1975. PL 93–365 1326
Department of Defense Appropriation Authorization Act, 1979. PL 95–485 1325
Department of Defense Appropriations Act, 1989. PL 100–463 1233
Department of Defense Appropriations Act, 1990
Report to Congress PL 101–189 Sec 1624 1204
Department of Defense Appropriations Act, 1991. PL 101–511 1209
Department of Defense Appropriations Act, 1993. PL 102–396 1113
General provisions PL 102–396 Title IX 1113
Department of Defense Appropriations Act, 1994. PL 103–139 1060
General provisions PL 103–139 Title VIII 1060
Department of Defense Appropriations Act, 2003. PL 107–248 810

Defense, Department of—Continued
Department of Defense Appropriations Act, 2005. PL 108–287 726
Department of Defense Authorization Act, 1983. PL 97–252 1322
Department of Defense Authorization Act, 1984. PL 98–94 1313
Department of Defense Authorization Act, 1985. PL 98–525 1294
Department of Defense Authorization Act, 1986. PL 99–145 1274
Department of Defense Authorization Act, 1987. PL 99–661 1263
Disaster assistance
Foreign 10 USC 404 624
Drawdown support
Supplemental appropriations, 2003 PL 108–11 Sec 1307 10
PL 108–11 Sec 1309 10
Drug-interdiction assistance
Appropriations authorization PL 99–145 Sec 1422 1289
Emergency Response Fund
Rwandan refugees PL 103–337 Sec 1002(b) 1005
Emergency supplemental appropriations authorization, FY 1994. PL 103–337 Sec 1002 1005
Environmental activities overseas
Report to Congress PL 105–85 Sec 345 926
Environmental cleanup of overseas sites
Foreign claims PL 105–261 Sec 321 894
Essential operations
Year 2000 compliance PL 106–261 Sec 335 898
Excess construction or fire equipment
Use limitations 10 USC 2562 680
Excess helicopters
Transferred to foreign governments 10 USC 2581 683
Excess personal property
Transfer to State and Federal agencies. 10 USC 2576a 682
Families of POWs/MIAs
Support center established PL 102–190 Sec 1083 1135
Foreign aid program
Administration of EO 12163 Sec 1–3 558
Foreign national employees
Compensation PL 108–287 Sec 8002 737
Severance pay PL 102–484 Sec 1351 1080
Humanitarian and civic assistance
Pacific Islands PL 108–287 Sec 8009 737
Humanitarian assistance
Appropriations reductions PL 104–106 Sec 1008 988
Humanitarian assistance programs
Appropriations, 2005 PL 108–287 Title II 736
INF Treaty
Funds appropriated PL 103–139 Sec 8033 1060
Information
Available to U.S. law enforcement officials. 10 USC 371 611
Intelligence collections systems
Use of PL 102–190 Sec 924 1121
Iraq Liberation Act of 1998
Supplemental appropriations, 2003 PL 108–11 Sec 1309 10
Iraq operating costs
Emergency appropriations authorization. PL 108–375 Sec 1501 718
Joint task force support for law enforcement agencies. PL 108–136 Sec 1022 743
Military equipment
Available to U.S. law enforcement officials. 10 USC 372 611

Defense, Department of—Continued
Military personnel
Available to train U.S. law enforcement officials. 10 USC 373 612
Operating equipment for U.S. law enforcement officials. 10 USC 374 612
National Defense Authorization Act for Fiscal Year 1991. PL 101–510 1143
National Defense Authorization Act for Fiscal Year 1993. PL 102–484 1062
National Defense Authorization Act for Fiscal Year 1994. PL 103–160 1031
National Defense Authorization Act for Fiscal Year 1995. PL 103–337 1001
National Defense Authorization Act for Fiscal Year 1996. PL 104–106 984
National Defense Authorization Act for Fiscal Year 1997. PL 104–201 963
National Defense Authorization Act for Fiscal Year 1998. PL 105–85 924
National Defense Authorization Act for Fiscal Year 2000. PL 106–65 847
National Defense Authorization Act for Fiscal Year 2002. PL 107–107 812
National Defense Authorization Act for Fiscal Year 2003. PL 107–314 771
National Defense Authorization Act for Fiscal Year 2004. PL 108–136 739
National Defense Authorization Act for Fiscal Year 2005. PL 108–375 693
National Defense Authorization Act for Fiscal Years 1988 and 1989. PL 100–180 1237
National Defense Authorization Act for Fiscal Years 1990 and 1991. PL 101–189 1181
National Defense Authorization Act for Fiscal Years 1992 and 1993. PL 102–190 1114
National Defense Authorization Act, Fiscal Year 1989. PL 100–456 1215
Nuclear weapons
Nonproliferation activities ..... PL 102–484 Sec 1503 1091
Offset policy
Findings of Congress ..... PL 100–456 Sec 825 1219
Operation and maintenance funding ..... PL 108–375 Sec 301 719
Operations
Security or counterintelligence failures. 10 USC 2723 686
Overseas environmental provisions
Report to Congress ..... PL 101–510 Sec 342 1146
Overseas Military Facility Investment Recovery Account
Established ..... PL 101–510 Sec 2921(c) 1171
Report to Congress ..... PL 101–510 Sec 2921(g)(2) 1174
Prior emergency supplemental appropriations
Adjustment of ..... PL 105–85 Sec 1004 927
Programs combating terrorism
Report to Congress ..... 10 USC 229(d) 611
Regional Defense Counterterrorism Fellowship Program
Assistance to ..... 10 USC 2249c 638
Satellite exports
National security control costs ..... PL 108–136 Sec 1212 751
Security and reconstruction activities in Iraq
Report to Congress ..... PL 108–136 Sec 1203 748
Senior military colleges
International student program ..... 10 USC 2111b 631

Defense, Department of—Continued		
Services and equipment		
Available to U.S. law enforcement officials.	10 USC 371–380	611
Specification of programs	PL 108–136 Sec 301	739
	PL 107–314 Sec 301	772
Supplemental appropriations authorization, FY 1993.	PL 103–160 Sec 1113	1035
Supplemental appropriations authorization, FY 2003.	PL 108–136 Sec 1003	739
Supplemental appropriations authorization, FY 2004.	PL 108–136 Sec 1003	739
Technology office		
Establishing in Japan	PL 101–510 Sec 248	1144
Technology security programs	PL 106–65 Sec 912	851
Terrorist countries		
Aid prohibition	10 USC 2249a(a)	637
U.S. law enforcement officials		
Assistance to	10 USC 380	616
United Nations peacekeeping activities		
Funding prohibition	10 USC 405	625
Vaccination programs of Health and Human Services		
Support for	PL 103–160 Sec 1705	1059
Western Hemisphere Institute for Security Cooperation.	10 USC 2166	632
Defense, Secretary of		
Armed forces relocation		
Accepting contributions	10 USC 2350k	665
Arms sales		
Duties	EO 11958	579
Authority in European air defense agreements.	PL 98–525 Sec 1007	1306
Authorizations, FY 1992		
Transfer authority	PL 102–190 Sec 1001	1122
Authorizations, FY 1994		
Transfer authority	PL 103–160 Sec 1101(a)	1034
Ballistic missile defense		
Report to Congress	PL 99–145 Sec 226	1277
Bosnia-Herzegovina		
Report on U.S. Armed Forces in	PL 105–261 Sec 1204	907
Chemical weapons tests		
Report to Congress	PL 99–145 Sec 1413	1287
Combating terrorism		
Rewards for information or assistance.	10 USC 127b	604
Contingency operations		
Objectives	PL 105–261 Sec 1212	910
Contractors in Iraq		
Management of	PL 108–375 Sec 1205	709
Report to Congress	PL 108–375 Sec 1205(c)	710
	PL 108–375 Sec 1206	711
Cooperative agreements		
Accepting real property or services	10 USC 2350g	661
Defense procurement sources		
Waivers	PL 108–287 Sec 8075	731
Defense programs		
Authority to accept contributions for	10 USC 2608	683
Defense Science Board		
Radio and television broadcasting for propaganda.	PL 106–65 Sec 1061	867
Foreign countries		
Military-to-military contacts	10 USC 168	606
Foreign Defense Technology Monitoring and Assessment, Office for.	10 USC 2517	671
Foreign disaster assistance	EO 12966	588
Foreign governments		
Memorandums of agreement	10 USC 2350h	661

Defense, Secretary of—Continued
Humanitarian assistance
Authorization to transport ..... PL 98–525 Sec 1540 1310
Homeless veterans ..... 10 USC 2557 678
Using excess non-lethal supplies ..... 10 USC 2557 678
International peacekeeping activities
Authorizations, FY 1993 ..... PL 102–484 Sec 1342 1079
Authorizations, FY 1994 ..... PL 103–160 Sec 1501 1049
Loan guarantee program
Definitions ..... 10 USC 2540d 677
Establishment of ..... 10 USC 2540 675
Fees charged and collected ..... 10 USC 2540c 676
Limitations ..... 10 USC 2540b 675
Loan guarantees
Report to Congress ..... PL 104–106 Sec 1321 990
Memoranda of understanding and related agreements. 10 USC 2531 672
Merged or "M" account obligations
Report to Congress ..... PL 102–484 Sec 1003 1062
Treatment of ..... PL 102–484 Sec 1003 1062
Military force structure
Report to Congress ..... 10 USC 113 597
Missile defense
Cooperation study ..... PL 108–375 Sec 1226 717
NATO member states
Residual value credit accounts ..... PL 108–287 Sec 8018 729
Prompt global strike capability
Integrated plan for ..... PL 108–136 Sec 1032 744
Report to Congress
Burden sharing contributions ..... 10 USC 2350j 663
Conduct of Persian Gulf conflict ..... PL 102–25 Sec 501 40
Israel-U.S. defense industrial cooperation. PL 102–484 Sec 205 1064
Requirements ..... PL 108–375 Sec 1093 705
Security or counterintelligence failures. 10 USC 2723 686
U.S. Armed Forces
Contingency and ongoing operations PL 105–261 Sec 1211 909
Weapons of mass destruction in Iraq
Report to Congress ..... PL 108–136 Sec 1204 750
Delegation of Functions Under the FREEDOM Support Act and Related Provisions of the Foreign Operations, Export Financing and Related Programs Appropriations Act. EO 12884 163
Democracy Corps
Appropriations authorization, 1993 ..... PL 102–511 Sec 401(j) 86
Grants to
Sunset provision ..... PL 102–511 Sec 401(k) 86
In the independent states of the former Soviet Union. PL 102–511 Sec 401 84
Grants to ..... PL 102–511 Sec 401(c) 85
Department of Defense
(see Defense, Department of)
Desert Shield
(see Operation Desert Shield)
Desert Storm
(see Operation Desert Storm)
Developing countries
Agricultural commodity sales
Eligibility ..... PL 83–480 Sec 102 1342
Terms and conditions ..... PL 83–480 Sec 103 1343
Debt relief
Findings of Congress ..... PL 106–200 Sec 121 174
Farmer-to-farmer program
Establishing ..... PL 83–480 Sec 501(b) 1375

Developing countries—Continued
Joint military exercises
Expenses paid by the United States 10 USC 2010 628
Malaria
Findings of Congress ..... PL 106–570 Sec 102 491
Microfinance programs
Findings of Congress ..... PL 106–309 Sec 102 496
Micronutrient fortification programs ..... PL 83–480 Sec 415 1373
Special operations forces
Training paid by the United States 10 USC 2011 629
Special operations forces training
Report to Congress ..... 10 USC 2011(e) 630
Development
(see also Foreign aid)
(see also Less-developed countries)
(see also United Nations)
Microenterprise assistance
Definitions ..... PL 106–309 Sec 104 499
Microfinance programs
Findings of Congress ..... PL 106–309 Sec 102 496
Development aid
(see Foreign aid)
Development Assistance Committee
(see Organization for Economic Cooperation and Development (OECD))
Development Fund for Africa
Sub-Saharan Africa
Support for economic development .. PL 106–200 Sec 127(b) 179
Diplomatic and Consular Service
Former Soviet Union
New posts ..... PL 102–511 Sec 802 100
Disabled persons
Peace Corps help ..... PL 87–293 Sec 3(h) 1554
Disaster assistance
(see also Humanitarian assistance)
Bangladesh
Additional funds ..... PL 100–576 Sec 4 353
Report to Congress ..... PL 100–576 Sec 5 354
Center for Excellence in Disaster Management and Humanitarian Assistance. 10 USC 182 607
Foreign
Secretary of Defense ..... EO 12966 588
International
Additional appropriations, 2005 ..... PL 108–287 Ch 2 726
Supplemental appropriations, 2003 PL 108–11 Ch 5 12
Disaster Management and Humanitarian Assistance, Center for
Payment authorization ..... PL 107–248 Sec 8093 810
Djibouti-U.S. relations
Findings of Congress ..... PL 102–274 Sec 2 202
Drug control
Aerial and maritime monitoring and detection
Department of Defense role ..... 10 USC 124 601
Afghanistan
Congressional review ..... PL 101–623 Sec 12 386
Sense of Congress ..... PL 108–375 Sec 1022 699
Agricultural alternatives
Assistance with ..... PL 101–623 Sec 6 385
Agricultural commodity sales ..... PL 83–480 Sec 414 1373
Agricultural Research Service counter-drug research PL 105–277 Sec 832 368
Aircraft coverage and operation in source and transit countries. PL 105–277 Sec 813 365
Alternative crop development
Foreign aid ..... PL 105–277 Sec 831 368

Drug control—Continued
Andean countries
Administration of Justice Program .. PL 101–623 Sec 2 380
Appropriations authorization ..... PL 101–623 Sec 2 380
Foreign aid ..... PL 101–623 Sec 2 380
Military aid ..... PL 101–623 Sec 3 381
Presidential determination ..... PL 101–623 Sec 4 384
Report to Congress ..... PL 101–623 Sec 4(b) 384
PL 101–510 Sec 1009 1156
Andean drug initiative ..... PL 101–231 Sec 2 391
Appropriations authorization ..... PL 105–277 Sec 861 374
Bolivia
Administration of Justice Program .. PL 101–623 Sec 2 380
Assistance to ..... PL 101–623 Sec 2 380
PL 101–231 Sec 3 393
Brooke-Alexander Amendment
Waiver of ..... PL 101–623 Sec 4(d) 385
PL 101–231 Sec 6 395
Bumpers Amendment
Waiver of ..... PL 101–231 Sec 14 400
Coast Guard
Drug-interdiction assistance ..... PL 99–145 Sec 1421 1288
Funds transferred from Department of Defense. PL 100–180 Sec 1242 1259
Coast Guard interdiction
Expansion of ..... PL 105–277 Sec 812 364
Colombia
Additional eradication resources ..... PL 105–277 Sec 821 366
Administration of Justice Program .. PL 101–623 Sec 2 380
Appropriations authorization ..... PL 105–85 Sec 1033 930
Assistance to ..... PL 101–623 Sec 2 380
PL 101–231 Sec 3 393
Counter-drug campaign ..... PL 108–136 Sec 1023 743
U.S. personnel involved ..... PL 106–246 Sec 3204(f) 224
Controlled Substances Trafficking Prohibition Act. PL 105–277 Sec 871 374
Counter-drug activities
Additional support for ..... PL 103–160 Sec 1121 1035
PL 101–510 Sec 1004 1152
Appropriations authorization, FY 2005. PL 108–375 Sec 1021 697
Department of Defense appropriations, 2005. PL 108–287 Title VI 727
Department of Defense authorizations. PL 101–510 Sec 1001 1151
PL 101–189 Sec 1201 1199
Extension and restatement of Defense support for. PL 107–107 Sec 1021 817
National Guard ..... PL 101–189 Sec 1201 1199
Report to Congress ..... PL 106–398 Sec 1022–1023 .. 828
PL 101–510 Sec 1007 1155
Sense of Congress ..... PL 105–261 Sec 1023 902
Using U.S. military personnel ..... PL 106–398 Sec 1026 829
Crop substitution
Assistance with ..... PL 101–231 Sec 14 400
PL 101–624 Sec 1544 1424
Crop substitution projects
Assistance from MDBs ..... PL 99–570 Sec 2018 405
Department of Defense
Appropriations authorization ..... PL 104–201 Sec 301 966
Appropriations authorization, FY 1992. PL 102–484 Sec 301(14) 1064
PL 102–190 Sec 301(a)(14) ... 1117
Appropriations authorization, FY 1993. PL 102–484 Sec 301(14) 1064
Appropriations authorization, FY 1996. PL 104–106 Sec 301(a)(15) ... 986

Drug control—Continued
Department of Defense—Continued
Appropriations authorization, FY 1998. PL 105–85 Sec 301 925
Appropriations authorization, FY 2002. PL 107–107 Sec 301(a)(20) ... 813
PL 106–65 Sec 301(20) 850
Communications network ..... PL 101–189 Sec 1204 1200
Counterdrug activities ..... PL 105–277 Sec 851(d) 373
Drug detection monitoring systems PL 102–484 Sec 1043 1068
Drug-interdiction assistance ..... PL 99–145 Sec 1422 1289
Report to Congress ..... PL 105–277 Sec 851(d) 373
Department of State
Increased funding for operations and equipment. PL 105–277 Sec 851 372
Department of the Treasury
Increased funding for operations and equipment. PL 105–277 Sec 851 372
Drug Enforcement Administration
Increased funding for operations and equipment. PL 105–277 Sec 851 372
Drug traffickers
Preventing entry into United States PL 103–447 Sec 107 379
E–2 aircraft
Testing use of ..... PL 99–145 Sec 1424 1290
Export-Import Bank
Loan guarantees ..... PL 79–173 Sec 2(b)(6)(A) 406
Findings of Congress ..... PL 105–277 Sec 802 361
Foreign aid
Restrictions waiver ..... PL 104–164 Sec 133 538
Waiver of restrictions ..... PL 103–447 Sec 105 379
Foreign law enforcement organizations
Foreign aid ..... PL 105–277 Sec 843 372
Herbicides
Environmentally approved ..... PL 105–277 Sec 834 370
Master plan for using ..... PL 105–277 Sec 833 369
Host country pilots
Training of ..... PL 101–623 Sec 13 386
Importing narcotic raw material
Report to Congress ..... PL 101–647 Sec 2501 389
U.S. policy on ..... PL 101–647 Sec 2501 389
Interdiction
Computer hardware and software funding. PL 105–277 Sec 852 373
Department of Defense appropriations, 2005. PL 108–287 Title VI 727
Department of Defense authorizations. PL 101–510 Sec 1001 1151
PL 101–189 Sec 1201 1199
Funds availability ..... PL 104–201 Sec 1032 968
Immunity for officials engaged in .... PL 103–337 Sec 1012 1006
National Guard ..... PL 101–189 Sec 1201 1199
Over-the-horizon radar ..... PL 101–510 Sec 1002 1151
Interdiction and counter-drug activities
Limitation on obligations ..... PL 105–85 Sec 1033(e) 931
Sense of Congress ..... PL 105–277 Sec 853 374
Interdiction of vessels and vehicles
Report to Congress ..... PL 99–661 Sec 1373 1272
International
Appropriations authorization ..... PL 101–623 Sec 5 385
International currency transactions
Information on ..... PL 100–690 Sec 4702 401
International narcotics
Notification requirement ..... PL 104–164 Sec 132 537
International terrorism
Reward for information on ..... PL 101–231 Sec 13 399
International training
Foreign aid authorization ..... PL 105–277 Sec 842 370

Drug control—Continued
Maritime training center
Foreign aid authorization ..... PL 105–277 Sec 841 370
Mexico
Appropriations authorization ..... PL 105–85 Sec 1032 929
PL 104–201 Sec 1031 966
Assistance to ..... PL 101–231 Sec 7 395
Military aid, U.S.
Exemptions for law enforcement agencies. PL 103–447 Sec 104 378
Military assistance to foreign governments. PL 101–231 Sec 3 393
Money laundering
Information access ..... PL 100–690 Sec 4702 401
Multilateral counter-drug strike force
Creation of ..... PL 101–510 Sec 1010 1157
Multilateral strike force ..... PL 101–231 Sec 11 398
Narcotics
Detection technologies ..... PL 105–85 Sec 1034 933
Narcotics traffickers
Halting weapons transfers ..... PL 101–231 Sec 12 399
Narcotics traffickers extradition
Report to Congress ..... PL 106–246 Sec 3203 220
National Drug Control Program ..... EO 12880 408
National Drug Intelligence Center
Appropriations ..... PL 103–139 Sec 8056 1061
National Narcotics Border Interdiction System
Sense of Congress ..... PL 101–189 Sec 1214 1203
Office of National Drug Control Reauthorization Act of 1998. PL 105–277 Sec 701 376
Officials responsible for
Sense of Congress ..... PL 105–277 Sec 825 368
Panama
Resumption of U.S. assistance ..... PL 101–243 Sec 102 282
Resumption of U.S. trade ..... PL 101–243 Sec 103 282
Peru
Administration of Justice Program .. PL 101–623 Sec 2 380
Appropriations authorization ..... PL 105–85 Sec 1033 930
Assistance to ..... PL 101–623 Sec 2 380
PL 101–231 Sec 3 393
Plan Colombia
Definition ..... PL 106–246 Sec 3204(h) 224
Limitations on assignment of U.S. military personnel. PL 106–246 Sec 3204(b) 222
Limitations on support for ..... PL 106–246 Sec 3204 220
Report to Congress ..... PL 106–246 Sec 3204(e) 224
President's Drug Policy Council
Establishment of ..... EO 12992 410
Radar coverage and operation in source and transit countries. PL 105–277 Sec 811 363
Riverine counter-drug program review
Report to Congress ..... PL 106–398 Sec 1024 829
Riverine Program ..... PL 101–623 Sec 14 387
Secretary of Defense
Counter-drug plan ..... PL 105–85 Sec 1033(h) 932
Smuggling into the United States
General Accounting Office study ..... PL 100–180 Sec 1241 1257
Surveillance flights
Civil Air Patrol ..... PL 101–510 Sec 1003 1152
PL 101–189 Sec 1209 1200
U.S. military and civilian personnel in Colombia
Report to Congress ..... PL 106–246 Sec 3204(f) 224
U.S. policy on ..... PL 105–277 Sec 802 361
U.S. trade policy
Coordination of objectives ..... PL 101–231 Sec 9 398

Drug control—Continued
United States Southern Command
Developing forward operating locations. PL 106–65 Sec 1024 859
Use of OH–58D helicopter
Feasibility study ..... PL 101–510 Sec 1008 1156
Using U.S. military personnel
Sense of Congress ..... PL 106–398 Sec 1026 829
Western Hemisphere Drug Elimination Act. PL 105–277 Sec 801 360

E

E (Kika) De La Garza Agricultural Fellowship Program
Established ..... PL 101–624 Sec 1542(d) 1417
East Asia-U.S. relations
U.S. military presence in
Report to Congress ..... PL 101–189 Sec 915 1195
Eastern Europe-U.S. relations
Advisory Committee for Studies of ..... PL 98–164 Sec 804 155
Democratic transition
Foreign aid ..... PL 101–243 Sec 201 119
Graduate student scholarships
Appropriations authorization ..... PL 102–138 Sec 227(d) 113
Information on
Findings of Congress ..... PL 98–164 Sec 802 154
Research on ..... PL 98–164 Sec 801 154
Economic aid
(see Foreign aid)
Economic Cooperation Act of 1948
Irish counterpart funds ..... PL 83–665 Sec 417 485
Economic Support Fund
Egypt
Appropriations authorization, FY 2001–2002. PL 106–280 Sec 514(b) 456
Supplemental appropriations, 2003 PL 108–11 Ch 5 13
Israel
Appropriations authorization, FY 2001–2002. PL 106–280 Sec 513(b) 455
Jordan ..... PL 99–88 Sec 402 314
Supplemental appropriations, 2003 PL 108–11 Ch 5 13
Lebanon-U.S. relations
Foreign aid ..... PL 98–43 Sec 2 316
Ecuador-U.S. relations
Drug control
Supplemental appropriations, 2000 PL 106–246 Title III 216
Education and Cultural Affairs, Bureau of
Appropriations authorization ..... PL 102–138 Sec 221 110
Education, Secretary of
Paul D. Coverdell Building
Appropriations authorization, FY 2002. PL 107–21 Sec 3 1584
Educational and cultural exchange
Emerging democracies
Programs for students ..... PL 102–138 Sec 210(a) 109
Former Soviet Union
Appropriations authorization ..... PL 102–511 Sec 807 100
South Africa ..... PL 103–149 Sec 7 200
Egypt-U.S. relations
Arms sales
Loan guaranties ..... PL 96–35 Sec 4 319
Economic Support Fund
Appropriations authorization, FY 2001–2002. PL 106–280 Sec 514(b) 456
Foreign aid restrictions ..... PL 108–11 Ch 5 13
Grants or loan guarantees ..... PL 108–11 Ch 5 13

Egypt-U.S. relations—Continued
Economic Support Fund—Continued
Supplemental appropriations, 2003 PL 108–11 Ch 5 13
Foreign Military Financing Program
Appropriations authorization ..... PL 106–280 Sec 514(c) 457
Military aid
Appropriations authorization, FY 2001–2002. PL 106–280 Sec 514 456
Operation Iraqi Freedom
Foreign aid conditions ..... PL 108–11 Ch 5 13
Sinai Field Mission
Facilities transfer ..... PL 96–35 Sec 6 320
Eisenhower Exchange Fellowship Act of 1990. PL 101–454 115
Eisenhower Exchange Fellowship Program Trust Fund. PL 101–454 Sec 3 116
Appropriations authorization ..... PL 101–454 Sec 5 117
Audit of ..... PL 101–454 Sec 4 117
Eisenhower Exchange Fellowships, Incorporated
Appropriations authorization
Report to Congress ..... PL 101–454 Sec 7 118
Assistance to U.S. fellows
Minority participation ..... PL 101–454 Sec 6(d) 118
Embargoes
Against Cuba
Enforcement of ..... PL 104–114 Sec 102 235
Termination of ..... PL 104–114 Sec 204 251
Agricultural commodities
Adverse impact reduction ..... PL 95–501 Sec 412 1509
Compensating producers ..... PL 95–501 Sec 411 1506
Trade
Against Iraq ..... PL 101–513 Sec 586C 47
PL 101–513 Sec 586C 47
Emergency Food Assistance Fund, President's. PL 98–473 Sec 303 1459
Emergency Security Assistance Act of 1973 .. PL 93–199 481
Emergency Supplemental Act, 2000 ..... PL 106–246 216
Emergency Supplemental Assistance for Israel Act of 1991. PL 102–21 313
Emergency Supplemental Persian Gulf Refugee Assistance Act of 1991. PL 102–45 311
Emergency Wartime Supplemental Appropriations Act, 2003. PL 108–11 6
Appropriations availability ..... PL 108–11 Sec 6601 20
Emerging democracies
Agricultural commodities
Free enterprise ..... PL 99–198 Sec 1110(b) 1442
Emerging market
Definition of ..... PL 101–624 Sec 1542(f) 1421
Emigration
(see Immigration, foreign)
Energy
U.S. companies
In the former Soviet Union ..... PL 102–511 Sec 304 83
Energy, Department of
International cooperative stockpile stewardship
Funding prohibition ..... PL 107–314 Sec 4301 798
National laboratories
Access by foreign nationals ..... PL 107–314 Sec 4502 806
Access moratorium exceptions ..... PL 107–314 Sec 4502(e) 808
Moratorium on restricting access to PL 107–314 Sec 4502(b) 807
Moratorium waiver ..... PL 107–314 Sec 4502(c) 807
Nuclear Cities Initiative
Expanded and enhanced activities ... PL 107–314 Sec 4304 803

Energy, Department of—Continued		
Nuclear Materials Protection, Control and Accounting Program.	PL 107–314 Sec 4303	802
Nuclear weapons		
Nonproliferation activities	PL 102–484 Sec 1503	1091
Nuclear weapons facilities		
International inspections prohibition	PL 107–314 Sec 4501	806
Sensitive countries list	PL 107–314 Sec 4502(g)	808
Stockpile stewardship		
Funding prohibition	PL 104–201 Sec 3138	980
Supplemental appropriations authorization, FY 2003.	PL 108–136 Sec 1003	739
Task Force on Nuclear Materials		
Establishment of	PL 108–375 Sec 3132	720
Weapons programs		
Transfer of funds	PL 101–510 Sec 3124	1175
Energy, Department of Facilities Safeguards, Security, and Counterintelligence Enhancement Act of 1999.	PL 106–65 Sec 3141	885
Energy, Secretary of		
Initiatives for Proliferation Prevention		
Report to Congress	PL 107–314 Sec 4302(c)	801
Nuclear Cities Initiative		
Report to Congress	PL 107–314 Sec 4302(b)	800
	PL 107–314 Sec 4302(c)	801
Nuclear test readiness		
Report to Congress	PL 104–201 Sec 3158	980
Request for new nuclear weapons funding		
Requirements	PL 107–314 Sec 4209	796
Sensitive countries list	PL 107–314 Sec 4502(g)	808
Silk Road Initiative		
Promotion of	PL 108–375 Sec 3133	723
Enterprise for the Americas Board		
Appointees to	EO 13345 Sec 4	1471
Government appointees to	EO 13345 Sec 4	1471
Enterprise for the Americas Facility		
Debt reduction	PL 83–480 Sec 603	270
Eligibility for benefits	PL 83–480 Sec 603	270
Eligible activities for assistance	PL 83–480 Sec 612	274
Environmental fund	PL 83–480 Sec 607–609	272
Establishing	PL 83–480 Sec 601	270
	PL 83–480 Sec 601	270
President		
Consultation with Congress	PL 83–480 Sec 615	276
Qualified debt sale		
Commodity Credit Corporation	PL 83–480 Sec 616(e)	277
Report to Congress	PL 83–480 Sec 614	275
Enterprise for the Americas Initiative	PL 83–480 Sec 601	270
Implementation of	EO 12757	1468
	EO 13345	1470
Enterprise for the Americas Initiative Act of 1992.	PL 102–532	267
Environment		
Biological diversity		
International cooperation to protect	PL 100–530	539
Contaminations at U.S. military installations abroad		
Releasing information on	PL 106–65 Sec 329	850
Enterprise for the Americas Environmental Fund.	PL 83–480 Sec 607–609	272
Good Neighbor Environmental Board		
Establishment of	PL 102–532 Sec 6	268
Restoration at military bases abroad		
Cost sharing	PL 102–484 Sec 324	1065
Environment for the Americas Board		
Establishing	PL 83–480 Sec 610	274

Espionage, foreign
Activities in the United States
U.S. policies toward ..... PL 99–661 Sec 1364 1270
Estonia-U.S. relations
Graduate students
U.S. scholarships ..... PL 102–138 Sec 227 112
Humanitarian assistance
Sense of Congress ..... PL 101–510 Sec 1459(c) 1164
Nonlethal defense articles
Eligibility for ..... PL 102–511 Sec 906 102
Ethiopia-U.S. relations
Economic sanctions against ..... PL 100–456 Sec 1310 1231
Findings of Congress ..... PL 102–274 Sec 2 202
Foreign aid
Brooke-Alexander Amendment waiver. PL 102–274 Sec 7(b) 209
Prohibitions on ..... PL 102–274 Sec 7 209
Peace
Presidential certification ..... PL 102–274 Sec 8 209
Policy on
Sense of Congress ..... PL 102–274 Sec 3(a) 203
Europe-U.S. relations
Air defense of U.S. military bases ..... PL 98–525 Sec 105 1294
Chemical weapons
Retrograde program ..... PL 101–189 Sec 172 1182
Foreign critical technology
Monitoring and assessment program. 10 USC 2518 672
Military equipment
Procured from United States ..... PL 102–190 Sec 832 1120
NATO
Sense of Congress ..... PL 102–190 Sec 1041 1122
U.S. military forces
Reducing ..... PL 93–365 Sec 302 1326
U.S. national security interests
Study on costs and benefits ..... PL 106–398 Sec 1223 834
European Security Act of 1998
Findings of Congress ..... PL 107–187 Sec 2 444
Excess defense articles
Authorizing transportation funds
Partnership for Peace countries ..... PL 104–164 Sec 105 536
SEED countries ..... PL 104–164 Sec 105 536
To certain countries
Using fiscal year 2003 funds ..... PL 107–228 Sec 1231 416
Transfer of
Drug enforcement activities ..... PL 101–510 Sec 1005 1155
Transfer to Bolivia, Colombia and Peru
Limitations on ..... PL 101–623 Sec 3(f) 383
Export controls
Licenses denials
Countries assisting Iraq ..... PL 101–513 Sec 586I 54
Missiles and missile technology
U.S. policy on ..... PL 101–510 Sec 1701 1166
Satellites
Department of Defense national security control costs. PL 108–136 Sec 1212 751
Export financing
Military equipment, U.S.
Study on ..... PL 101–189 Sec 825(a) 1186
Export of Naval Vessels that May Contain Polychlorinated Biphenyls for Scrapping Outside the United States
Agreement on ..... PL 105–85 Sec 1026 928
Export vessels
Loan guarantees ..... 49 Stat 1985 Sec 1111 553
Report to Congress ..... 49 Stat 1985 Sec 1111 553

Export-Import Bank
Drug control
Loan guarantees ..... PL 79–173 Sec 2(b)(6)(A) 406
Loan authority increase
Report to Congress ..... PL 101–510 Sec 4303 1178
Sub-Saharan Africa
Initiatives in ..... PL 106–200 Sec 124 177
Export-Import Bank Act of 1945
Drug control provisions ..... PL 79–173 406
Exports
(see also Trade)
Agricultural commodities
Compensation and assistance programs. PL 95–501 Sec 417 1512
Credit sales program ..... PL 95–501 Sec 201 1491
Enhancement of ..... PL 95–501 Sec 301 1502
Expansion of ..... PL 95–501 Sec 413 1510
Foreign exchange risks ..... PL 99–198 Sec 1134 1455
High-value ..... PL 95–501 Sec 303 1505
Market promotion program ..... PL 95–501 Sec 203 1496
Program controls ..... PL 95–501 Sec 401–404 1506
Program limitations ..... PL 95–501 Sec 416 1511
Promotion of ..... PL 95–501 Sec 103 1489
Suspension of ..... PL 95–501 Sec 417 1512
To People's Republic of China ..... PL 99–198 Sec 1106 1441
U.S. policy ..... PL 99–198 Sec 1121 1452
Value-added ..... PL 95–501 Sec 303 1505
Agricultural commodity sales
Dairy products ..... PL 99–198 Sec 1163 1457
Agricultural credits and guarantees
Multilateral disciplines on ..... PL 104–127 Sec 282 1405
Agricultural exports commodities
Trade strategy development ..... PL 95–501 Sec 103 1489
Commodity Credit Corporation assistance
Report to Congress ..... PL 95–501 Sec 603 1516
PL 95–501 Sec 603 1516
Control mechanisms
Report to Congress ..... PL 104–106 Sec 1324(b) 994
Controls on
National security implications ..... PL 104–106 Sec 1322 991
Defense
Loan guarantees ..... PL 108–287 Sec 8065 731
Foreign market development cooperator program. PL 95–501 Sec 702 1516
Eligible trade organizations ..... PL 95–501 Sec 701 1516
Impact on U.S. military capability
Review by Secretary of Defense ..... PL 108–136 Sec 1211 751
Iraq
Prohibited items ..... PL 101–513 Sec 586G 52
Munitions List license applications
Electronic system ..... PL 107–228 Sec 1403 436
Non-defense production
Financing assistance ..... PL 101–510 Sec 4303 1178
Transition to ..... PL 101–510 Sec 4303 1178
Satellites
National security control costs ..... PL 108–136 Sec 1212 751
U.S. goods and services
To the former Soviet Union ..... PL 102–511 Sec 303(b) 82
Weapons
Control capabilities ..... PL 107–228 Sec 1302 418

F

Family planning
(see Population planning)
Farm Security and Rural Investment Act of 2002 — PL 107–171 Sec 1 — 1389
Farmer-to-farmer program
Agricultural operations and systems
Improving — PL 83–480 Sec 501 — 1375
Feed grains surplus
Overseas donations — PL 81–439 Sec 416(b) — 1427
Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001. — PL 106–398 Sec 1 — 821
Food, perishable
International transport of — PL 97–325 Sec 2 — 1543
Food
(see also Agricultural commodity sales)
(see also Agriculture)
Wheat reserve
Established — EO 12266 — 1531
Food aid
Africa
Report to Congress — PL 99–8 Sec 6 — 213
Commodity Credit Corporation
Free enterprise — PL 99–198 Sec 1110(l) — 1447
Dairy surplus — PL 81–439 Sec 416(b) — 1427
Developing countries
Promoting U.S. foreign policy — PL 83–480 Sec 2 — 1340
Sense of Congress — PL 83–480 Sec 3 — 1341
Wheat reserve — PL 96–494 Title III — 1526
Distribution of
Using eligible organizations — PL 83–480 Sec 202(e) — 1348
Independent states of the former Soviet Union
Private voluntary organizations assistance. — PL 102–511 Sec 703 — 99
Military distribution of
Conditions on — PL 83–480 Sec 403(i) — 1363
President's Emergency Food Assistance Fund. — PL 98–473 Sec 303 — 1459
Report to Congress — PL 98–473 Sec 304 — 1460
Special Assistant to the President for Agricultural Trade and Food Aid. — PL 99–198 Sec 1113 — 1450
Stockpiling and delivery
Assistance for — PL 83–480 Sec 208 — 1355
Transportation, delivery, and distribution
Grants for — PL 83–480 Sec 208 — 1355
Wheat, rice, feed grains surplus — PL 81–439 Sec 416(b) — 1427
Food Aid Consultative Group
Agricultural commodity sales — PL 83–480 Sec 205 — 1352
Food and Agriculture Act of 1977 — PL 95–113 — 1463
Food Assistance Policy Council
Establishment of — EO 12752 Sec 3 — 1468
Food for Development Program
Established — PL 83–480 Sec 301 — 1356
Food for Progress Act of 1985 — PL 99–198 Sec 1110 — 1442
Implementation of — EO 12752 — 1467
Food sales
(see Agricultural commodity sales)
Food Security Act of 1985 — PL 99–198 — 1440
Food Security Wheat Reserve Act of 1980- — EO 12266 — 1531
Food supplies
International emergency reserves — PL 81–439 Sec 111 — 1427
Food, Agriculture, Conservation, and Trade Act of 1990. — PL 101–624 — 1410

Forced labor		
Products made with		
Monitoring imports	PL 105–261 Title XXXVII	922
Report to Congress	PL 105–261 Title XXXVII	922
Foreign affairs		
Administrator of the USAID		
Recommendations from	EO 13345 Sec 3	1471
Functions		
Assignment of	EO 13345	1470
Secretary of State		
Functions assigned to	EO 13345 Sec 2	1471
Secretary of the Treasury		
Functions assigned to	EO 13345 Sec 1	592
Foreign Agricultural Service		
Administrator of	PL 95–501 Sec 502	1513
Appropriations, 2005	PL 108–447 Title V	1436
Established	PL 95–501 Sec 503–506	1514
Foreign aid		
(see also Agency for International Development)		
(see also Disaster assistance)		
(see also Food aid)		
(see also Humanitarian assistance)		
(see also Overseas Private Investment Corporation)		
Administration of	EO 12163	555
Africa: Seeds of Hope Act of 1998	PL 105–385	183
Belarus		
Promoting democracy and civil society.	PL 108–347 Sec 2	58
Commodities		
Coordinating disposition of	PL 81–439 Sec 416(b)	1427
Counterpart funds	PL 83–665 Sec 417	485
Delegation of functions		
Department of State	45 FR 11655	565
Destruction of surplus weapons stockpiles		
Appropriations authorization, 2003	PL 107–228 Sec 1241	417
Developing countries		
Microfinance programs	PL 106–309 Sec 103	499
Development and use of cooperatives		
Report to Congress	PL 106–309 Sec 401(d)	507
Emergency Supplemental Assistance for Israel Act of 1991.	PL 102–21	313
Environmental activities	PL 106–309 Sec 401(c)	506
Foreign aid program		
Implementation of	EO 11223	585
GUUAM countries and Armenia		
Border security authorizations, 2001–2002.	PL 106–280 Sec 516	458
Humanitarian assistance		
Transporting abroad	PL 106–309 Sec 403	507
Hungary		
Private sector development	PL 101–179 Sec 201(b)	129
Iraq		
Democratic transition support	PL 105–338 Sec 4	22
Humanitarian aid	PL 105–338 Sec 4(b)	23
Post Saddam Hussein regime	PL 105–338 Sec 7	25
Reimbursement to the Department of Defense.	PL 105–338 Sec 4(e)	24
Report to Congress	PL 105–338 Sec 4(d)	24
Restrictions on	PL 105–338 Sec 4(c)	23
Iraq Relief and Reconstruction Fund		
Appropriations, 2003	PL 108–11 Ch 5	12
Latin America		
U.S. policy	PL 86–735 Sec 1	290
Lebanon	PL 98–43	316
Certification on troop deployment	PL 107–228 Sec 1224	416

Foreign aid—Continued
Less-developed countries
Development and use of cooperatives. PL 106–309 Sec 401(d) 507
Mauritania
Presidential certification ..... PL 104–319 189
Personnel
(see Peace Corps)
Poland
Private sector development ..... PL 101–179 Sec 201(b) 129
Programs
Allocation of funds ..... EO 12163 Sec 1–800 563
Sense of Congress ..... PL 107–171 Sec 3209 1393
Promoting good governance ..... PL 106–309 Sec 202 503
Sub-Saharan Africa
Additional authorities ..... PL 106–200 Sec 127 179
Development Fund for Africa ..... PL 106–200 Sec 127(b) 179
Report to Congress ..... PL 105–385 Sec 301 188
Supplemental appropriations, 2003
Transfers between accounts ..... PL 108–11 Sec 1311 12
PL 108–11 Sec 1501 16
Transfer of funds ..... PL 108–11 Sec 1313 12
Congressional notification ..... PL 108–11 Sec 1311 12
Limitations on ..... PL 108–11 Sec 1311 12
Transported humanitarian relief supplies
Report to Congress ..... PL 98–525 Sec 1540(e) 1310
United States Microfinance Loan Facility
Report to Congress ..... PL 106–309 Sec 107 500
Zimbabwe
Democratic reforms ..... PL 107–99 Sec 5 167
Foreign assistance
(see Foreign aid)
Foreign currencies
(see Currencies, foreign)
Foreign Currency Fluctuations, Peace Corps Account
Appropriations authorization ..... PL 87–293 Sec 16(g) 1576
Established ..... PL 87–293 Sec 16 1575
Foreign Defense Critical Technology Monitoring and Assessment, Office for. 10 USC 2517 671
Foreign gifts and decorations
(see Gifts, foreign)
Foreign governments
(see Governments, foreign)
Foreign market development cooperator program
Appropriations authorization ..... PL 95–501 Sec 703 1517
Report to Congress ..... PL 95–501 Sec 702(c) 1517
Foreign Military Financing Program
Grants
Appropriations authorization, 2003 PL 107–228 Sec 1223(a) 414
NATO Participation Act of 1994
Assistance authorization ..... PL 107–187 Sec 5 446
Foreign military sales
Middle East
Loan guaranties ..... PL 96–35 Sec 4 319
Foreign Military Sales Act
(see Arms Export Control Act)
Foreign Service
Allowances ..... PL 87–293 Sec 15(a) 1572
Assignments
NATO ..... PL 83–665 Sec 408 484
Foreign Service Reserve Officers ..... PL 89–134 Sec 5 1594

Foreign trade
(see Trade)
Forest products, U.S.
International competitiveness
Enhancing ..... PL 101–624 Sec 1247 1411
Forest Stewardship Act of 1990 ..... PL 101–624 Sec 1201 1411
Former Soviet Union Demilitarization Act of 1992. PL 102–484 Sec 1401 1085
Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992. PL 102–511 73
FREEDOM Support Act ..... PL 102–511 73
Delegation of functions ..... EO 12884 163
FRIENDSHIP Act ..... PL 103–199 67
Fugitives
(see Refugees)

G

General Accounting Office
Technology transfers to China
Study on ..... PL 107–107 Sec 1223 819
General Government Matters Appropriation Act, 1962. PL 87–125 542
George C. Marshall European Center for Security Studies
Use of contributions ..... PL 103–337 Sec 1306 1014
George C. Marshall European Center for Strategic Security Studies
Accepting foreign gifts ..... PL 104–201 Sec 1065(a) 973
Foreign country participation ..... PL 104–201 Sec 1065(b) 973
Gerald B.H. Solomon Freedom Consolidation Act of 2002. PL 107–187 444
Germany-U.S. relations
Air defense of U.S. military bases ..... PL 98–525 Sec 105 1294
Patriot missile system ..... PL 98–525 Sec 105 1294
Gifts, foreign
Property, services, and supplies
Report to Congress ..... 10 USC 2608(e) 684
Global AIDS and Tuberculosis Relief Act of 2000. PL 106–264 509
Global AIDS Research and Relief Act of 2000 PL 106–264 Sec 101 509
Definitions ..... PL 106–264 Sec 102 509
Global Alliance for Vaccines and Immunizations and International Aids Vaccine. PL 106–264 Sec 112 513
Global Disaster Information Network
Interagency Coordinating Committee ..... EO 13151 Sec 2–4 590
Policy ..... EO 13151 Sec 1 589
Global Environmental Center
Activities ..... PL 106–309 Sec 402 507
Global Partnership against the Spread of Nuclear Weapons and Materials of Mass Destruction. PL 108–375 Sec 1213 715
Global strike capability
Integrated plan for
Established by Secretary of Defense PL 108–136 Sec 1032 744
Glomar Java Sea
Ascertaining fate of survivors ..... PL 98–525 Sec 1541 1311
Good Neighbor Environmental Board
Establishment of ..... PL 102–532 Sec 6 268
Projects
Report to Congress ..... PL 102–532 Sec 6(d) 269
Governments, foreign
Contributions of property, services, and supplies
Report to Congress ..... 10 USC 2608(e) 684

Governments, foreign—Continued
Defense Department contract proposals
Significant interest disclosure ..... 10 USC 2327(a) 639
Humanitarian assistance ..... PL 98–525 Sec 1540 1310
Legal actions against U.S. persons
Remedies in response to ..... PL 108–136 Sec 1232 754
Military training
Inter-American Air Forces Academy 10 USC 9415 691
Personnel
Peace Corps contribution ..... PL 87–293 Sec 14 1571
Providing nuclear test monitoring equipment
Report to Congress ..... 10 USC 2565(c) 682
Transfer authority ..... 10 USC 2565 681
U.S. security arrangements with
Report to Congress ..... PL 101–510 Sec 1456 1162
Greece-U.S. relations
Cyprus conflict ..... PL 94–104 Sec 2 479
GUUAM countries and Armenia
Border security
Appropriations authorization, FY 2001–2002. PL 106–280 Sec 516 458

H

Haiti-U.S. relations
U.S. military in
Limitation on, FY 2000 ..... PL 106–65 Sec 1232 879
Health care
Peace Corps volunteers ..... PL 87–293 Sec 5(e) 1556
Swine influenza
Control of ..... PL 94–302 Title III 540
Higgins, William R.
Murder of
Sense of Congress ..... PL 101–189 Sec 1638(b) 1205
Higher Education Amendments of 1986
Peace Corps provisions ..... PL 99–498 1596
HIV/AIDS
Foreign aid
Additional assistance authorities ..... PL 106–264 Sec 111 512
Sub-Saharan Africa
Access to drugs and medical technologies. EO 13155 521
Effect on workforce ..... PL 106–200 Sec 105(e) 172
Findings of Congress ..... PL 106–200 Sec 129 181
Worldwide
Findings of Congress ..... PL 106–264 Sec 103 509
U.S. policy ..... PL 106–264 Sec 103 509
HIV/AIDS Response Fund
Establishment of
Sub-Saharan Africa ..... PL 106–200 Sec 128 180
Hong Kong
Former Governor of
Findings and sense of Congress ..... PL 105–85 Sec 1232 960
Horn of Africa Recovery and Food Security Act. PL 102–274 202
Hospital, American Children's
Zablocki Outpatient Facility ..... PL 98–266 153
Human rights
Iraq
Violation of United Nations Security Council Resolution 688. PL 102–190 Sec 1096 1136
Violations in Kuwait ..... PL 101–513 Sec 586A(7) 47
Violations of ..... PL 101–513 Sec 586F(a)(4) ... 50
PL 101–513 Sec 586F(b) 51
Poland
Violation of ..... PL 100–456 Sec 1305 1228

Human rights—Continued
Respect for
Arms sales conditions ..... PL 106–113 Sec 1262(b)(2) ... 476
Violations
Agricultural commodity sales ..... PL 83–480 Sec 403(j) 1363
Violations by foreign security forces
U.S. training prohibition ..... PL 108–287 Sec 8076 732
Violations of by Iraq
U.N. response ..... PL 105–338 Sec 6 25
Human Rights, Refugee, and Other Foreign Relations Provisions Act of 1996. PL 104–319 189
Humanitarian assistance
Afghan refugees ..... PL 101–510 Sec 303 1145
PL 101–189 Sec 304 1173
PL 100–456 Sec 303 1217
PL 99–145 Sec 305 1277
Extension of authorization ..... PL 99–661 Sec 331 1268
Appropriations authorization, FY 2000 .. PL 106–65 Sec 301(19) 850
Appropriations, FY 1993 ..... PL 102–396 Title II 1113
Center for Excellence in Disaster Management. 10 USC 182 607
Central America
Private voluntary and international organizations. PL 101–215 Sec 1 284
Department of Defense ..... PL 103–160 Sec 1504 1052
Appropriations authorization ..... PL 104–201 Sec 301 966
Appropriations authorization, FY 1992. PL 102–190 Sec 301(a)(17) ... 1117
Appropriations authorization, FY 1993. PL 102–484 Sec 301(17) 1064
PL 102–190 Sec 301(c)(16) 1117
Appropriations authorization, FY 1996. PL 104–106 Sec 301(a)(19) ... 986
Appropriations authorization, FY 1998. PL 105–85 Sec 301 925
Appropriations authorization, FY 2002. PL 107–107 Sec 301(a)(19) ... 813
Appropriations authorization, FY 2004. PL 108–136 Sec 301(18) 740
Appropriations authorization, FY 2005. PL 108–375 Sec 301(18) 719
Appropriations, FY 2005 ..... PL 108–287 Sec 8009 737
Department of Defense overseas programs
Appropriations reductions ..... PL 104–106 Sec 1008 988
Report to Congress ..... PL 104–106 Sec 1311 990
Department of Defense programs
Appropriations, 2005 ..... PL 108–287 Title II 736
Department of Defense providing ..... 10 USC 401 619
Estonia
Sense of Congress ..... PL 101–510 Sec 1459(c) 1164
Extension of authorization ..... PL 100–180 Sec 331 1249
Iraq
Exemptions under United Nations Security Council resolutions. PL 101–513 Sec 586C(b) 48
Iraqi refugees ..... PL 102–45 311
Land mine clearing
Appropriations authorization ..... PL 103–160 Sec 306 1032
Latvia
Sense of Congress ..... PL 101–510 Sec 1459(c) 1164
Lithuania
Sense of Congress ..... PL 101–510 Sec 1459 1164
Nicaragua
Child victims ..... PL 100–276 Sec 8 288
Private voluntary and international organizations. PL 100–276 Sec 8 288

Humanitarian assistance—Continued
Non-Communist resistance forces
Thailand and Cambodia ..... PL 100–456 Sec 303 1217
Overseas Humanitarian, Disaster, and Civic Aid programs
Limitation on ..... PL 103–337 Sec 1411 1029
Secretary of Defense
Report to Congress ..... 10 USC 2561(c) 679
Transfer of funds ..... 10 USC 2561 679
PL 102–484 Sec 304(b) 1065
Transportation provided ..... 10 USC 2561(a) 679
Soviet Union ..... PL 102–228 Sec 301 106
Supplemental appropriations authorization, FY 1993. PL 103–160 Sec 1113 1035
Thai-Cambodian resistance forces ..... PL 102–484 Sec 304(a)(2) 1065
PL 102–190 Sec 304 1117
PL 101–510 Sec 303 1145
PL 101–189 Sec 304 1173
Training foreign civilian and military personnel
Payment for ..... PL 107–248 Sec 8093 810
Transport of supplies by Department of Defense. 10 USC 402 622
Report to Congress ..... PL 98–525 Sec 1540 1310
Transportation relief
Afghanistan ..... PL 102–484 Sec 304 1065
Afghanistan invasion by Soviet Union. PL 102–190 Sec 304 1117
Unauthorized countries
Report to Congress ..... 10 USC 2561(d) 679
Using excess non-lethal supplies ..... 10 USC 2557 678
Hungarian-American Enterprise Fund
Annual report ..... PL 101–179 Sec 201(p) 133
Appropriations authorization ..... PL 101–179 Sec 201(b) 129
Record keeping requirements ..... PL 101–179 Sec 201(o) 132
USAID grants ..... PL 101–179 Sec 201(e) 130
Hungary-U.S. relations
Central European Small Business Enterprise Development Commission. 67 Stat 232 160
Credit unions
U.S. policy on ..... PL 101–179 Sec 206 136
Environment
Report to Congress ..... PL 101–179 Sec 703 145
Labor market reforms
Assistance in ..... PL 101–179 Sec 202 133
Private sector development
Assistance in ..... PL 101–179 Sec 203 134
Foreign aid ..... PL 101–179 Sec 201(b) 129
Small business
Management and technical assistance. 67 Stat 232 160
Support for East European Democracy (SEED)
Democratic institutions support ..... PL 101–179 Sec 501 141
Environmental programs ..... PL 101–179 Sec 502 141
Multilateral support for ..... PL 101–179 Sec 101 125
Hunger
Congressional Hunger Fellows Program
Established ..... PL 107–171 Sec 4404(b) 1397
Congressional Hunger Fellows Trust Fund
Established ..... PL 107–171 Sec 4404(e) 1401
In the United States
Addressing needs ..... PL 107–171 Sec 4404(d) 1399
International
Addressing needs ..... PL 107–171 Sec 4404(d) 1399

Hunger prevention
(see Food aid)

I

Immigration, U.S.
Iraqi armed forces members
Admission to United States ..... PL 103–160 Sec 1164 1035
Immigration and Naturalization Service
U.S. military assistance
Plan preparation ..... PL 106–65 Sec 1027 860
Immigration, foreign
Latin America
Ryukyuan migrants ..... PL 86–735 Sec 4 292
Imports
Educational and cultural materials
(see Educational and cultural exchange)
Forced labor products made with
Destined for the U.S. market ..... PL 105–261 Title XXXVII 922
Independent States Business and Agriculture Advisory Council
Establishment of ..... PL 102–511 Sec 302 82
India-Pakistan Relief Act of 1998 ..... PL 105–277 Title IX 350
India-U.S. relations
Drug control
Imports of narcotics raw material .... PL 101–647 Sec 2501 389
Sanctions
Waiver of ..... PL 106–79 Sec 9001 348
Indochina War
POWs/MIAs
Disclosing information on ..... PL 102–190 Sec 1082 1132
Indonesia-U.S. relations
International military education and training
Aid restrictions ..... PL 104–164 Sec 111 537
Information
International cooperative information exchange
Findings of Congress ..... PL 105–261 Sec 3160 920
Initiatives for Proliferation Prevention
Funding authorization ..... PL 105–261 Sec 3133(a) 919
Initiatives for Proliferation Prevention Program
Achieving commercial objectives
Evaluation ..... PL 107–314 Sec 4302(a)(5) ... 800
Intellectual property rights
Inadequate protection of
Consideration with respect to procurement. PL 101–189 Sec 852 1186
Intelligence, foreign
Integration of
Funding availability ..... PL 108–287 Sec 8124 732
Inter-American Air Forces Academy
Operation of ..... 10 USC 9415 691
International Anti-Corruption and Good Governance Act of 2000. PL 106–309 Sec 201 503
Findings of Congress ..... PL 106–309 Sec 202 503
International Arms Sales Code of Conduct Act of 1999. PL 106–113 Sec 1261 475
PL 106–113 Subtitle F 528
International Atomic Energy Agency (IAEA)
Nuclear and radiological security
Dialogue with the OECD ..... PL 108–136 Sec 3631 761

International Atomic Energy Agency-U.S. relations
Assistance to Iran
Report to Congress ..... PL 107–228 Sec 1344 435
Budget assessment increase ..... PL 107–228 Sec 1305 420
Country specific programs
Report to Congress ..... PL 107–228 Sec 1344 435
Findings of Congress ..... PL 107–228 Sec 1305 419
Programs and projects review
Report to Congress ..... PL 107–228 Sec 1343 434
Voluntary contributions ..... PL 107–228 Sec 1305 420
International Bank for Reconstruction and Development
(see World Bank)
International Carriage of Perishable Foodstuffs Act. PL 97–325 1543
International cooperation
Undersea rescue and recovery
Sense of Congress ..... PL 106–398 Sec 1237(c) 839
International Cooperation to Protect Biological Diversity. PL 100–530 539
International cooperative stockpile stewardship
Associated activities
Funding prohibition ..... PL 107–314 Sec 4301 798
International Cotton Advisory Committee
U.S. participation ..... PL 104–127 Sec 283 1406
International Development Cooperation Agency Delegation of Authority No. 1. 44 FR 57521 577
International Disaster Assistance
Additional appropriations, 2005 ..... PL 108–287 Ch 2 726
Supplemental appropriations, 2003 ..... PL 108–11 Ch 5 12
International Emergency Economic Powers Act (IEEPA)
Chinese military companies
Application to ..... PL 106–261 Sec 1237 916
International financial institutions
South Africa
Democratic transition support ..... PL 103–149 Sec 9 200
International Forest Products Trade Institute
Establishing ..... PL 101–624 Sec 1247 1411
International law
Iraq
Violation of ..... PL 101–513 Sec 586F 50
International Malaria Control Act of 2000 .... PL 106–570 Sec 101 491
International military education and training
Appropriations authorization, FY 2001 .. PL 106–280 Sec 201 451
International Monetary Fund
Practices consistent with U.S. policies
Report to Congress ..... PL 106–113 Sec 504(e) 528
International Narcotics Control Act of 1986 PL 99–570 Sec 2001 404
International Narcotics Control Act of 1988 PL 100–690 Title IV 401
International Narcotics Control Act of 1989 PL 101–231 Sec 1 391
International Narcotics Control Act of 1990 PL 101–623 Sec 1 380
International Narcotics Control Corrections Act of 1994. PL 103–447 378
International organizations
(see also respective institutions)
Personnel
Peace Corps contribution ..... PL 87–293 Sec 14 1571
International peacekeeping activities
U.S. support for ..... PL 103–160 Sec 1501 1049
PL 102–484 Sec 1342 1079
International Tuberculosis Control Act of 2000. PL 106–264 Sec 201 518

Iran Nuclear Proliferation Prevention Act of 2002.	PL 107–228 Sec 1341	434
Iran-Iraq Arms Non-Proliferation Act of 1992.	PL 102–484 Sec 1601	26
Definitions	PL 102–484 Sec 1608	30
Iran-U.S. relations		
Arms control		
Policy toward	PL 102–484 Sec 1602	27
International Atomic Energy Agency assistance		
Report to Congress	PL 107–228 Sec 1344	435
Iraq Sanctions Act of 1990		
Applicability	PL 102–484 Sec 1603	27
Iraq Freedom Fund		
Appropriations, 2005		
Additional	PL 108–287 Title IX	733
Emergency appropriations		
Authorization for	PL 108–375 Sec 1507	719
Supplemental appropriations, 2003	PL 108–11 Title I	6
Pakistan reimbursement	PL 108–11 Sec 1310	11
Transfer of funds to	PL 108–11 Sec 1313	12
Iraq Liberation Act of 1998	PL 105–338	21
Drawdown support		
Supplemental appropriations, 2003	PL 108–11 Sec 1309	10
Findings of Congress	PL 105–338 Sec 2	21
Iraq Relief and Reconstruction Fund		
Appropriations, 2003	PL 108–11 Ch 5	12
Congressional notification	PL 108–11 Ch 5	12
Iraq Sanctions Act of 1990	PL 101–513 Sec 586–586J	46
Iran		
Applicability	PL 102–484 Sec 1603	27
Iraq Sanctions Act of 1992		
Provisions of		
Suspension by President	PL 108–11 Sec 1503	17
Iraq-U.S. relations		
Actions with respect to		
Multilateral cooperation	PL 101–513 Sec 586F(d)	51
Arms control		
Policy toward	PL 102–484 Sec 1602	27
Coalition forces		
Funding availability	PL 108–287 Sec 9009	735
Coalition Provisional Authority		
Inspector General	PL 108–375 Sec 1203	708
Commanders' Emergency Response Program		
Appropriations authorization	PL 108–375 Sec 1201	707
Appropriations, 2005	PL 108–287 Sec 9007	734
Democracy in		
Foreign aid	PL 105–338 Sec 4	22
Democratic opposition organizations		
Designation of	PL 105–338 Sec 5	24
Department of Defense security and reconstruction activities		
Report to Congress	PL 108–136 Sec 1203	748
Findings of Congress	PL 105–338 Sec 2	21
Foreign aid		
Funds subject to reprogramming procedures.	PL 108–11 Sec 1502	17
Increased operating costs		
Emergency appropriations authorization.	PL 108–375 Sec 1501	718
Injured Iraqi children		
Medical assistance for	PL 108–136 Sec 1201	746
International financial assistance		
U.S. opposition to	PL 101–513 Sec 586G(5)	52
Invasion of Kuwait		
Declarations	PL 101–513 Sec 586A	47
Trade embargo	PL 101–513 Sec 586C	47

Iraq-U.S. relations—Continued
Iraq Relief and Reconstruction Fund
Appropriations, 2003 ..... PL 108–11 Ch 5 12
Iraqi security forces
Report to Congress ..... PL 108–375 Sec 1204(c) 709
Military aid
Nonlethal military equipment ..... PL 108–11 Sec 1504 18
Military and security forces
Assistance authorization ..... PL 108–375 Sec 1202 707
Military operations
Supplemental appropriations, 2003 PL 108–11 Title I 6
Natural Resources Risk Remediation Fund
Supplemental appropriations, 2003 PL 108–11 Title I 9
New Iraqi Army
Training and equipment funding ..... PL 108–287 Sec 9006 734
Persons detained by United States
Abuse prevention ..... PL 108–375 Sec 1092 704
Policies on ..... PL 108–375 Sec 1091(b) 703
Sense of Congress ..... PL 108–375 Sec 1091 703
Post conflict strategy
Report to Congress ..... PL 108–11 Sec 1506 19
Post-major combat operations
Report to Congress ..... PL 108–375 Sec 1042 700
Rebuilding with U.S. funds
Sense of Congress ..... PL 102–25 Sec 607 44
Reconstruction
Participation of women ..... PL 108–136 Sec 1205 750
Small business participation ..... PL 108–136 Sec 1205 750
Saddam Hussein regime
Replacement of ..... PL 105–338 Sec 7 25
Stabilization strategy
Report to Congress ..... PL 108–375 Sec 1204 708
Terrorism
Support for acts of ..... PL 101–513 Sec 586F(c) 51
U.S. policy on ..... PL 105–338 Sec 3 22
United Nations Oil-for-Food Program
U.S. access to documents ..... PL 108–375 Sec 1207 712
Violation of United Nations Security Council Resolution 687
Sense of Congress ..... PL 102–190 Sec 1095 1135
Violation of United Nations Security Council Resolution 688
Sense of Congress ..... PL 102–190 Sec 1096 1136
War crimes tribunal ..... PL 105–338 Sec 6 25
Weapons
Support for inspections and monitoring. PL 107–314 Sec 1204 778
Weapons activity
U.N. inspection and monitoring ..... PL 106–398 Sec 1201 830
Weapons of mass destruction
Report to Congress ..... PL 108–136 Sec 1204 750
Ireland-U.S. relations
Agriculture
Exchanging information ..... PL 99–198 Sec 1420 1458
Counterpart funds ..... PL 83–665 Sec 417 485
Promoting reconciliation ..... PL 99–415 355
Israel-U.S. relations
Arab boycott
Department of Defense contracts ..... 10 USC 2410i 668
Department of Defense contracts policies. PL 102–190 Sec 1075 1132
Arms sales
Loan guaranties ..... PL 96–35 Sec 4 319
Defense articles
Transfers ..... PL 106–280 Sec 112 450
Defense cooperation
Sense of Congress ..... PL 103–337 Sec 1321 1020

Israel-U.S. relations—Continued		
Defense industrial cooperation	PL 102–484 Sec 205	1064
Economic Support Fund		
Appropriations authorization, FY 2001–2002.	PL 106–280 Sec 513(b)	455
Loan guarantees	PL 108–11 Ch 5	14
Supplemental appropriations, 2003	PL 108–11 Ch 5	14
Foreign Military Financing Program		
Appropriations authorization	PL 106–280 Sec 513(c)	455
Loan guarantees		
Report to Congress	PL 108–11 Ch 5	14
Military aid	PL 93–199	481
	PL 91–441 Sec 501	1329
Appropriations authorization, FY 2001–2002.	PL 106–280 Sec 513	454
Military equipment		
Concessional exchange	PL 108–287 Sec 12001	737
Naval port facilities		
Sense of Congress	PL 104–106 Sec 1336	996
Navy port calls		
Sense of Congress	PL 108–136 Sec 1234	756
Persian Gulf conflict		
Supplemental appropriations authorization.	PL 102–21	313
Satellite imagery		
Prohibition on collection and release	PL 104–201 Sec 1064	972
Italy-U.S. relations		
Air defense of U.S. military bases	PL 98–525 Sec 105	1294
Cooperative agreements		
Air defense	PL 102–190 Sec 1050	1128

J

Japan-U.S. relations		
Burden sharing		
Sense of Congress	PL 101–510 Sec 1455	1161
Ceiling on U.S. Armed Forces in	PL 101–510 Sec 1455	1161
Contributions to common defense	PL 98–94 Sec 1102	1313
Department of Defense technology office		
Establishing	PL 101–510 Sec 248	1144
Global security		
Expanded Japanese role	PL 101–189 Sec 913	1193
	PL 100–456 Sec 1009	1223
	PL 100–180 Sec 1012	1252
Japanese agricultural markets access	PL 100–418 Sec 4608	1485
Japanese trade with Vietnam		
Sense of Congress	PL 100–180 Sec 1404	1261
Language training		
Grants program established	10 USC 2198	635
Personal vehicles of U.S. military personnel.	PL 98–525 Sec 653	1300
Security relationship		
Report to Congress	PL 103–337 Sec 1325	1024
Semiconductor trade agreement		
Sense of Congress	PL 104–201 Sec 1081	974
Technological research and development		
Cooperation	PL 102–190 Sec 255	1117
	PL 101–510 Sec 1454	1160
U.S. Armed Forces in		
Contributions in support of	PL 101–510 Sec 1455	1161
U.S. defense expenditures in		
Report to Congress	PL 101–189 Sec 913	1193
	PL 100–456 Sec 1009(b)	1224
	PL 100–180 Sec 1011	1252
John Ogonowski and Doug Bereuter Farmer-to-Farmer Program.	PL 83–480 Sec 501	1375

John Ogonowski and Doug Bereuter Farmer-to-Farmer Program—Continued
Appropriations authorization ..... PL 83–480 Sec 501(e) 1378
Establishing ..... PL 83–480 Sec 501(b) 1375
Johnson Act
Independent states of the former Soviet Union
Exemption from ..... PL 102–511 Sec 902 102
Joint Chiefs of Staff
Military roles and missions
Report to Secretary of Defense ..... PL 102–484 Sec 901 1066
Joint Commission on Rural Reconstruction in China
U.S. membership in ..... PL 83–665 Sec 536 488
Jordan Supplemental Economic Assistance Authorization Act of 1985. PL 99–88 Sec 401 314
Jordan-U.S. relations
Arms sales
Joint resolution on ..... PL 99–162 478
Economic Support Fund
Supplemental appropriations, 2003 PL 108–11 Ch 5 13
Foreign aid ..... PL 99–88 Sec 402 314
Presidential certification ..... PL 99–88 Sec 403(b) 314
Logistical support in Iraq
Reimbursement for ..... PL 108–11 Sec 1310 11

K

Korea, North-U.S. relations
Department of Defense appropriations
Assistance restrictions ..... PL 108–287 Sec 8051 730
Nuclear weapons development
Sense of Congress ..... PL 103–337 Sec 1324 1022
Korea, Republic of-U.S. relations
Korean beef market access ..... PL 100–418 Sec 4607 1484
Korean military readiness ..... PL 103–337 Sec 1322 1020
National security
Expanded Korean role ..... PL 101–189 Sec 915 1195
Peninsula security situation
Report to Congress ..... PL 106–65 Sec 1233 879
U.S. military presence in
Findings of Congress ..... PL 102–190 Sec 1044 1125
Korean Airlines (KAL) Flight 7
Former Soviet Union-U.S. trade relations. PL 103–199 Sec 201 70
Kosovo-U.S. relations
Peacekeeping
Support from European nations ..... PL 106–398 Sec 1213 832
Peacekeeping operations, FY 2001
Funding limitation ..... PL 106–398 Sec 1005 825
Peacekeeping operations, FY 2002
Funding limitation ..... PL 107–107 Sec 1005 815
Withdrawal of U.S. military
NATO benchmarks for ..... PL 106–398 Sec 1212 831
Kuwait-U.S. relations
Burden sharing contributions
Anticipation of ..... PL 108–287 Sec 8026 729
Rebuilding
Sense of Congress ..... PL 102–25 Sec 606 42

L

Land mines
Alternatives to
Appropriations authorization, FY 1999. PL 105–261 Sec 248 892

Language proficiency
Foreign service officers ..... PL 101–624 Sec 1556 1425
Language training
Arabic
Program expansion ..... PL 107–107 Sec 306 813
Japanese
Grants program established ..... 10 USC 2198 635
Peace Corps ..... PL 87–293 Sec 24 1577
Latin America
(see also Organization of American States)
Enterprise for the Americas Facility
Establishing ..... PL 83–480 Sec 602 270
Environment for the Americas Board
Establishing ..... PL 83–480 Sec 610 274
Latin America-U.S. relations
Al Qaeda and associated groups
Report to Congress ..... PL 108–375 Sec 1047 702
Enterprise for the Americas Initiative
Implementation of ..... EO 12757 1468
Foreign aid ..... PL 86–735 Sec 1 290
Free trade zone
Effect on United States ..... PL 102–532 Sec 5 268
Ryukyuan Archipelago
Immigration from ..... PL 86–735 Sec 4 292
Tropical Forest Conservation Act of 1988
Implementation of ..... EO 12757 1468
Latin American Development Act ..... PL 86–735 290
Latvia-U.S. relations
Graduate students
U.S. scholarships ..... PL 102–138 Sec 227 112
Humanitarian assistance
Sense of Congress ..... PL 101–510 Sec 1459(c) 1164
Nonlethal defense articles
Eligibility for ..... PL 102–511 Sec 906 102
Law enforcement officials, U.S.
Assistance from Department of Defense 10 USC 380 616
Least developed countries
Agricultural commodity sales
Bilateral grants ..... PL 83–480 Sec 302 1356
Eligibility ..... PL 83–480 Sec 302 1356
Grant programs ..... PL 83–480 Sec 303 1357
Lebanon Emergency Assistance Act of 1983 PL 98–43 316
Lebanon-U.S. relations
Armed forces
Deployment to Lebanon-Israeli border. PL 107–228 Sec 1224 416
Economic Support Fund
Foreign aid ..... PL 98–43 Sec 2 316
Foreign aid
Presidential certification on deployment of armed forces. PL 107–228 Sec 1224 416
Military aid ..... PL 98–43 Sec 3 317
U.S. Armed Forces in ..... PL 98–43 Sec 4 317
Lending institutions
(see Multilateral development banks)
Less-developed countries
(see also Africa-U.S. relations)
(see also Africa, Horn of-U.S. relations)
(see also Africa, sub-Saharan-U.S. relations)
(see also Latin America-U.S. relations)
Agricultural commodity imports
(see Agricultural commodity sales)
Malaria
Findings of Congress ..... PL 106–570 Sec 102 491

Liberia-U.S. relations
Peace process
Sense of Congress ..... PL 102–270 211
Libya-U.S. relations
Sanctions
Continuation of ..... PL 106–65 Sec 1234 880
Lithuania-U.S. relations
Graduate students
U.S. scholarships ..... PL 102–138 Sec 227 112
Humanitarian assistance
Sense of Congress ..... PL 101–510 Sec 1459 1164
Nonlethal defense articles
Eligibility for ..... PL 102–511 Sec 906 102
Loan guarantees
Israel
Economic Support Fund ..... PL 108–11 Ch 5 14
Loyalty
Oath of allegiance
Peace Corps volunteers ..... PL 87–293 Sec 5(j) 1558
Peace Corps ..... PL 87–293 Sec 5(j) 1558
Security investigations ..... PL 87–293 Sec 5(j) 1558

M

Maintaining United States Nuclear Weapons Expertise, Commission on
Authority modification ..... PL 105–85 Sec 3163 962
Established ..... PL 104–201 Sec 3162 980
Malaria
Eradication assistance
Appropriations authorization ..... PL 106–570 Sec 103 492
Foreign countries
Eradication assistance ..... PL 106–570 Sec 103 492
Findings of Congress ..... PL 106–570 Sec 102 491
United States
Findings of Congress ..... PL 106–570 Sec 102 491
Malta-U.S. relations
Static cargo x-ray facility ..... PL 106–280 Sec 304 452
Management and Budget, Office of
Foreign aid program administration ..... EO 12163 Sec 1–503 559
Reserved functions ..... EO 12163 Sec 1–703 562
Mauritania-U.S. relations
Foreign aid
Presidential certification ..... PL 104–319 189
McGovern-Dole International Food for Education and Child Nutrition Program
Established ..... PL 107–171 Sec 3107 1389
Grants
Appropriations, 2005 ..... PL 108–447 Title V 1437
Memoranda of understanding and related agreements
Secretary of Defense ..... 10 USC 2531 672
Merchant marine, U.S.
Transporting agricultural commodity exports. PL 99–198 Sec 1141 1456
Merchant Marine Act of 1936, as amended ... 49 Stat 1985 544
Mexico-U.S. relations
Agricultural research and development program. PL 95–113 Sec 1459 1535
Agriculture
Center for North American Studies PL 102–532 Sec 4 267
Drug control
Appropriations authorization ..... PL 105–85 Sec 1032 929
PL 104–201 Sec 1031 966
Assistance limitation ..... PL 101–231 Sec 7 395
Elections
Findings and sense of Congress ..... PL 105–85 Sec 1230 958

Mexico-U.S. relations—Continued
Environmental projects
Good Neighbor Environmental Board. PL 102–532 Sec 6 268
Microenterprise assistance
Findings and sense of Congress ..... PL 106–309 Sec 110 502
MIAs
(see also Indochina War)
Families of
Support center ..... PL 102–190 Sec 1083 1135
Indochina
Accounting of ..... PL 98–525 Sec 1525 1309
Information on
Public availability of ..... PL 102–190 Sec 1082 1132
Microenterprise assistance
Mexico
Findings and sense of Congress ..... PL 106–309 Sec 110 502
Microenterprise for Self-Reliance and International Anti-Corruption Act of 2000. PL 106–309 Sec 1 496
Findings of Congress ..... PL 106–309 Sec 102 496
Microenterprise institutions
Access to by poor people overseas
Report to Congress ..... PL 106–309 Sec 108 500
Supporting and strengthening
AID leadership ..... PL 106–309 Sec 109 502
U.S. foreign policy objectives ..... PL 106–309 Sec 103 499
Middle East
(see also Israel-U.S. relations)
Arms control
Consultation support ..... PL 106–398 Sec 1202 831
Israel-U.S. relations
Military aid ..... PL 91–441 Sec 501 1329
Peace efforts
Military aid in support of ..... PL 96–35 Sec 2 318
Support from countries ..... PL 96–35 Sec 7 320
U.S. relations with
Military aid ..... PL 93–199 481
Water resources
Sense of Congress ..... PL 104–201 Sec 268 965
Middle East Peace Commitments Act of 2002 PL 107–228 Sec 601 293
Middle East Peace Facilitation Act of 1993 ... PL 103–125 308
Middle East Peace Facilitation Act of 1994 ... PL 103–236 Sec 581 304
Middle East Peace Facilitation Act of 1995 ... PL 104–107 Sec 601 296
Military, foreign
Noncombat achievements or performance
Awards and mementos to recognize 10 USC 1051b 627
Military, U.S.
(see also Mutual defense)
Army industrial facilities
Sales outside Department of Defense. 10 USC 4543 687
Ballistic missile defense
Report to Congress ..... PL 99–145 Sec 226 1277
Bottom-Up Review
Korean peninsula ..... PL 103–337 Sec 1323 1021
Combat duty in Nicaragua
Sense of Congress ..... PL 99–145 Sec 1451 1292
Cooperating with U.S. civilian law enforcement officials. 10 USC 380 616
Culebra training operations ..... PL 93–365 Sec 704 1327
Defense build down
Findings of Congress ..... PL 102–484 Sec 4101 1111
Defense capability assessment
Report to Congress ..... 10 USC 113(i) 598
Dual basing
Report to Congress ..... PL 101–510 Sec 2801 1169
End strength levels ..... 10 USC 691 625

Military, U.S.—Continued		
End strengths, FY 2000	PL 106–65 Sec 401	851
End strengths, FY 2001	PL 106–398 Sec 401	823
End strengths, FY 2002	PL 107–107 Sec 401	814
End strengths, FY 2003	PL 107–314 Sec 401	773
End strengths, FY 2004	PL 108–136 Sec 401	741
End strengths, FY 2005	PL 108–375 Sec 401	724
Additional authority	PL 108–375 Sec 403	724
Humanitarian assistance	10 USC 401	619
Intelligence information		
Civilian use of	10 USC 371	611
Lebanon force	PL 98–43 Sec 4	317
Mobility of		
Report to Congress	PL 101–510 Sec 909	1149
National strategy		
Presidential presentation to Congress.	PL 101–510 Sec 1469	1165
Report to Congress	PL 101–510 Sec 901	1148
Number of members on active duty	10 USC 691	625
Operations		
Designated by Secretary of Defense	10 USC 127a	602
Funds not provided for in advance	10 USC 127a	602
Relationship to War Powers Resolution.	10 USC 127a(h)	604
Requests for supplemental appropriations.	10 USC 127a(f)	604
Outer space		
Control capabilities	PL 100–456 Sec 243	1216
Overseas contingency operations		
Appropriations, 2005	PL 108–287 Title II	736
Peace operations		
Adequate troop protection equipment.	PL 105–85 Sec 1052	936
Persian Gulf forces		
Commendation of	PL 100–180 Sec 1401	1259
Personnel		
International exchange agreements	PL 104–201 Sec 1082	975
Ready Reserve		
Sense of Congress	PL 101–510 Sec 1432	1158
Report to Congress	PL 93–365 Sec 302	1326
Reserve components		
Armored forces	PL 101–510 Sec 1434	1159
Retired members		
Serving with newly democratic nations.	10 USC 1060	627
	PL 103–160 Sec 1433	1048
Roles and missions		
Report to Congress	PL 102–484 Sec 901	1066
Special operations forces	PL 99–145 Sec 1453	1292
Stationed abroad		
Andean countries	PL 101–623 Sec 8	386
Civilian personnel reduction in Europe.	PL 101–189 Sec 314	1184
Closing installations	PL 101–510 Sec 2921	1170
Conventional force reductions	PL 101–189 Sec 901	1187
Costs incurred	10 USC 113(j)	599
Crotone, Italy	PL 102–190 Sec 2851	1140
	PL 101–510 Sec 1456	1162
End strength in Europe	PL 103–337 Sec 1303	1012
Environmental cleanup	PL 105–261 Sec 321	894
Environmental compliance	PL 101–510 Sec 342	1146
Environmental restoration activities	PL 102–484 Sec 324	1065
Europe	PL 100–180 Sec 1002	1251
	PL 93–365 Sec 302	1326
Europe limitation	PL 98–94 Sec 1103	1315
Findings of Congress	PL 105–85 Sec 1043	934
Force level reductions	PL 103–160 Sec 1401(c)	1041
Force structure in the Pacific	PL 107–314 Sec 1211	782

Military, U.S.—Continued
Stationed abroad—Continued
Funding limitation ..... PL 103–337 Sec 1311 1014
Limitation on ..... 10 USC 123b 601
Limitation on foreign national employees. PL 102–190 Sec 1054 1130
Redeployment in Europe ..... PL 108–136 Sec 1233 755
Relocating functions ..... PL 101–189 Sec 921 1197
Report to Congress ..... PL 105–85 Sec 1221(d) 949
PL 105–85 Sec 1043(c) 934
PL 104–201 Sec 1084(d) 978
PL 102–484 Sec 1304 1072
Salaries of foreign national employees. PL 101–510 Sec 1456 1162
Sense of Congress ..... PL 106–65 Sec 1235 881
Severance pay to foreign nationals .. PL 101–189 Sec 311 1184
Training U.S. civilian law enforcement officials. 10 USC 374 612
Participation restrictions ..... 10 USC 375 615
United Nations Rapidly Deployable Mission Headquarters
Assignment limitation ..... PL 105–261 Sec 1231 913
Military aid, U.S.
(see also Arms sales, U.S.)
(see also Economic Support Fund)
(see also Mutual defense)
Defense articles
Credit sales ..... PL 106–280 Sec 101 449
Export loan guarantees ..... PL 103–160 Sec 1186 1036
Transfer of ..... PL 80–253 Sec 505 489
Drug control
Exemptions for law enforcement agencies. PL 103–447 Sec 104 378
Egypt
Appropriations authorization, FY 2001–2002. PL 106–280 Sec 514 456
Estonia
Excess defense articles ..... PL 106–113 Sec 1212 465
Foreign military financing grants
Appropriations authorization ..... PL 107–228 Sec 1223(a) 414
Georgia
Excess defense articles ..... PL 106–113 Sec 1212 465
Greece
Appropriations authorization, 2003 PL 107–228 Sec 1222 414
Hungary
Excess defense articles ..... PL 106–113 Sec 1212 465
International Military Education and Training
Appropriations authorization, 2003 PL 107–228 Sec 1211 414
PL 107–228 Sec 1223(b) 415
Israel ..... PL 93–199 481
Appropriations authorization, FY 2001–2002. PL 106–280 Sec 513 454
Kazakhstan
Excess defense articles ..... PL 106–113 Sec 1212 465
Kyrgyzstan
Excess defense articles ..... PL 106–113 Sec 1212 465
Latvia
Excess defense articles ..... PL 106–113 Sec 1212 465
Lithuania
Excess defense articles ..... PL 106–113 Sec 1212 465
Middle East
Loan guaranties ..... PL 96–35 Sec 4 319
Peace treaty support ..... PL 96–35 Sec 2 318
Moldova
Excess defense articles ..... PL 106–113 Sec 1212 465

Military aid, U.S.—Continued
National security assistance strategy
Report to Congress ..... PL 107–228 Sec 1501 438
Naval vessels
Transfer of ..... PL 106–280 Sec 601 459
PL 106–113 Sec 1271 467
PL 106–261 Sec 1235 913
Philippines
Sense of Congress ..... PL 106–280 Sec 709 463
Poland
Excess defense articles ..... PL 106–113 Sec 1212 465
Republic of Korea
Stockpile transfer ..... PL 106–113 Sec 1232(a) 466
Slovakia
Excess defense articles ..... PL 106–113 Sec 1212 465
Stockpile transfer
Congressional notification ..... PL 106–113 Sec 1232(d) 467
Thailand
Stockpile transfer ..... PL 106–113 Sec 1232(b) 466
Turkey ..... PL 94–104 Sec 2 479
Appropriations authorization, 2003 PL 107–228 Sec 1222 414
Ukraine
Excess defense articles ..... PL 106–113 Sec 1212 465
Uzbekistan
Excess defense articles ..... PL 106–113 Sec 1212 465
Military bases abroad
(see Military, U.S., Stationed abroad)
Military construction
Appropriations authorization
Expirations ..... PL 102–190 Sec 2701 1140
Military Construction Authorization Act for Fiscal Year 1991. PL 101–510 Sec 2001 1167
Military Construction Authorization Act for Fiscal Year 1992. PL 102–190 Sec 2001 1139
Military equipment, foreign
Ballistic missiles
Nonproliferation of ..... PL 108–375 Sec 1212 714
Missiles in South Asia
U.S. policy on ..... PL 107–228 Sec 1601 438
Military equipment, U.S.
Anti-ballistic missiles
Development and testing ..... PL 100–180 Sec 225 1241
Anti-personnel land mines
Export controls ..... PL 102–484 Sec 1365 1082
Export moratorium extension ..... PL 103–160 Sec 1423 1046
Anti-satellite weapons ..... PL 98–94 Sec 1235 1320
B–1B bomber program
Sense of Congress ..... PL 99–145 Sec 1425 1290
BIGEYE binary chemical bomb
Production restrictions ..... PL 99–145 Sec 1411(d) 1280
Civilian use of ..... 10 USC 372 611
Exports
Export financing ..... PL 101–189 Sec 825 1186
ICBM dismantlement
Limitation on ..... PL 103–337 Sec 221 1005
ICBM modernization
Appropriations authorization, FY 1992. PL 102–190 Sec 222 1116
Midgetman missile program
Modernization of ..... PL 100–180 Sec 220 1239
Minuteman III ICBMs
Redeployment or transfer ..... PL 102–190 Sec 153 1115
Report to Congress ..... PL 102–190 Sec 153 1115
Missiles
Technology control ..... PL 101–510 Sec 1701 1166
Missiles and missile technology
Transfer of ..... PL 101–510 Sec 1701 1166
U.S. policy on ..... PL 101–510 Sec 1701 1166

Military equipment, U.S.—Continued
MX missile
Policy on additional acquisitions ..... PL 98–525 Sec 110 1295
Modernization of ..... PL 100–180 Sec 220 1239
M1 or M1–A1 Abrams tank
Co-production of ..... PL 100–180 Sec 1023 1255
Naval vessels
Transfers of ..... PL 107–228 Sec 1701 442
OA–37 Dragonfly
Foreign military sales ..... PL 98–525 Sec 113 1299
Procured by European military ..... PL 102–190 Sec 832 1120
Strategic bomber programs
Sense of Congress ..... PL 99–145 Sec 1425 1290
Tactical antisatellite technologies
Appropriations authorization ..... PL 104–201 Sec 231 964
Transfer of
Notice to Congress ..... PL 80–253 Sec 505 489
Transfer to certain nations
Restrictions on ..... PL 100–456 Sec 1307 1229
Transfer to Europe
Sense of Congress ..... PL 101–510 Sec 357 1147
Transfer to Saudi Arabia ..... PL 100–456 Sec 1306 1229
Military exercises
Developing countries
Expenses paid by the United States 10 USC 2010 628
Military procurement, U.S.
Cuban or Soviet Union produced nickel
Products containing ..... PL 98–525 Sec 1544 1312
Imported materials
Impact on U.S. industrial base ..... PL 98–525 Sec 1522 1308
Military sales
(see Arms sales)
Military training
Special operations forces
Expenses paid by the United States 10 USC 2011 629
Missile Technology Control Regime
Arms export controls ..... PL 101–510 Sec 1701 1166
Missiles
(see Military equipment)
Missing-in-action (MIAs)
(see Indochina War)
(see MIAs)
Mongolia-U.S. relations
Excess defense articles
Military aid ..... PL 106–280 Sec 707 462
Montenegro-U.S. relations
Foreign aid prohibition ..... PL 103–160 Sec 1511 1053
Multilateral development banks (MDBs)
Activities
Support for East European Democracy (SEED) Program. PL 101–179 Sec 2(c) 123
Multilateral Investment Guarantee Agency
Former Soviet Union
Report to Congress ..... PL 102–511 Sec 1009 105
Multilateral organizations
(see International organizations)
Muskie Fellowships
Soviet Union-Eastern Europe
Law and business training scholarships. PL 102–138 Sec 227(f) 114
Mutual defense
Security arrangements
Report to Congress ..... PL 101–510 Sec 1457 1163
Mutual defense treaties
Cost-sharing agreements ..... PL 102–190 Sec 1046 1127

Mutual Educational and Cultural Exchange Act of 1961		
(see also Educational and cultural exchange)		
Implementing		
Appropriations authorization	PL 102–138 Sec 221	110
Mutual Security Act of 1954	PL 83–665	484
Mutual Security Act of 1959	PL 86–108	483

N

Narcotics		
(see Drug control)		
National Advisory Commission on Agricultural Export Transport Policy		
Duties	49 Stat 1985 Sec 901h	552
Establishing	49 Stat 1985 Sec 901g	551
National Advisory Council on International Monetary and Financial Policies		
Report to Congress	PL 99–570 Sec 2018(c)	405
National Agricultural Research, Extension, and Teaching Policy Act of 1977.	PL 95–113 Sec 1401	1532
	PL 95–113 Title XIV	1532
National and Community Service Act of 1990.	PL 101–610 Note	1597
	PL 101–610	1597
National and Community Service, Corporation for		
Authority to provide assistance	PL 101–610 Sec 121	1598
Directors	PL 101–610 Sec 191	1602
Established	PL 101–610 Sec 191	1602
Peace Corps training assistance	PL 101–610 Sec 198(h)	1603
VISTA training	PL 101–610 Sec 198(h)	1603
National Commission on Agricultural Trade and Export Policy.	PL 97–98 Sec 1219	1539
National Commission on Defense and National Security		
Establishment of	PL 101–511 Sec 8104	1209
Report to Congress	PL 101–511 Sec 8104	1209
National Commission on the Use of Offsets in Defense Trade.	PL 106–113 Sec 1247	471
Report to Congress	PL 106–113 Sec 1247(d)	472
National Contingency Operation		
Personnel Fund	10 USC 127a(a)(3)	602
Appropriations authorization, FY 1994.	PL 103–160 Sec 1108	1034
National defense		
Appropriations authorization, 1996		
Reductions of	PL 104–106 Sec 1008	988
Military strategy		
Presidential presentation to Congress.	PL 101–510 Sec 1469	1165
Report to Congress	PL 101–510 Sec 901	1148
National Defense Authorization Act for Fiscal Year 1991.	PL 101–510	1143
National Defense Authorization Act for Fiscal Year 1993.	PL 102–484	1062
National Defense Authorization Act for Fiscal Year 1994.	PL 103–160	1031
National Defense Authorization Act for Fiscal Year 1995.	PL 103–337	1001
National Defense Authorization Act for Fiscal Year 1996.	PL 104–106	984
	PL 103–337 Note	1002
National Defense Authorization Act for Fiscal Year 1997.	PL 104–201	963

National Defense Authorization Act for Fiscal Year 1998.	PL 105–85	924
National Defense Authorization Act for Fiscal Year 2000.	PL 106–65 Sec 1	847
National Defense Authorization Act for Fiscal Year 2002.	PL 107–107	812
National Defense Authorization Act for Fiscal Year 2003.	PL 107–314 Sec 1	771
National Defense Authorization Act for Fiscal Year 2004.	PL 108–136 Sec 1	739
National Defense Authorization Act for Fiscal Year 2005.	PL 108–375	693
National Defense Authorization Act for Fiscal Years 1988 and 1989.	PL 100–180	1237
National Defense Authorization Act for Fiscal Years 1990 and 1991.	PL 101–189	1181
National Defense Authorization Act for Fiscal Years 1992 and 1993.	PL 102–190	1114
National Defense Authorization Act, Fiscal Year 1989.	PL 100–456	1215
National Drug Control Program	EO 12880	408
National Drug Intelligence Center		
Appropriations	PL 103–139 Sec 8056	1061
National Drug Operations Center		
Feasibility study		
Report to Congress	PL 101–189 Sec 1213	1200
National emergency		
Chemical or biological weapons		
Secretary of Defense	10 USC 382	617
Chemical, biological, radiological, or nuclear attack		
U.S. preparedness	PL 104–106 Sec 379	986
End strength limitation		
Suspension of	10 USC 123a	600
National Foreign Intelligence Program		
Appropriations authorization, FY 2002		
Maximum amount	PL 107–107 Sec 1006	816
National Narcotics Border Interdiction System		
Sense of Congress	PL 101–189 Sec 1214	1203
National security		
Agricultural commodity exports		
Suspension of	PL 95–501 Sec 417	1512
Assistance strategy for the United States.	PL 106–280 Sec 501	453
Cuban threat to		
Assessment of	PL 105–85 Sec 1228	956
Department of Energy programs		
Appropriations authorization, FY 1991.	PL 102–25 Sec 801	44
Export controls		
Report to Congress	PL 104–106 Sec 1322(c)	992
Sense of Congress	PL 104–106 Sec 1322	991
Export licenses		
Biological pathogens	PL 104–106 Sec 1323	993
Findings of Congress	PL 102–484 Sec 4101	1111
National Security Act of 1947	PL 80–253	489
National Security Assistance Strategy		
Annual report to Congress	PL 106–280 Sec 501	453
National Security Education Trust Fund		
Appropriations, 2005	PL 108–287 Title VII	728
National service programs		
Alaska		
Yukon-Kuskokwim Delta	PL 101–610 Sec 198D	1603
Grant eligibility	PL 101–610 Sec 122	1598
Participant recruitment and placement	PL 101–610 Sec 138	1601
Urban Youth Corps	PL 101–610 Sec 122	1598
National Service Trust Program	PL 101–610	1597

National Voluntary Action Program	EO 12137 Sec 1–5	1607
Nationality		
(see Refugees)		
NATO		
Acquisition and cross-servicing agreements.	10 USC 2341	641
Applicable law	10 USC 2343	643
Acquisition and cross-servicing agreements with the United States		
Definitions	10 USC 2350	648
Acquisitions and transfers		
Methods of payment	10 USC 2344	643
Alliance		
Enlargement of	PL 107–187 Sec 2	444
Appropriations		
Expiration of	PL 101–510 Sec 2701	1168
Appropriations authorization	PL 101–510 Sec 2502	1168
Armaments cooperation with member countries		
Report to Congress	PL 98–525 Sec 1006	1305
Autonomy of action		
Sense of Congress	PL 103–337 Sec 1302(b)	1011
AWACS program		
Authority of Secretary of Defense	10 USC 2350e	658
Burden sharing		
Report to Congress	PL 106–398 Sec 1221(b)	833
Civil budget		
Appropriations authorization, FY 1999.	PL 105–261 Sec 243	891
Common-funded budgets		
U.S. contribution to	PL 107–314 Sec 1003	773
Common-funded budgets, FY 2000		
U.S. contribution to	PL 106–65 Sec 1005	854
Common-funded budgets, FY 2001		
U.S. contribution to	PL 106–398 Sec 1004	824
Common-funded budgets, FY 2002		
U.S. contribution to	PL 107–107 Sec 1004	814
Common-funded budgets, FY 2005		
U.S. contribution to	PL 108–375 Sec 1002	696
Contributions by allies		
Report to Congress	PL 98–525 Sec 1003	1303
	PL 98–94 Sec 1102	1313
Conventional forces		
Improvement of	PL 98–525 Sec 1002	1301
	PL 98–94 Sec 1104	1314
Cooperative logistic support agreements	10 USC 2350d	657
Cooperative programs	PL 98–94 Sec 1101	1313
Appropriations authorization, FY 1985.	PL 98–525 Sec 105	1294
Appropriations authorization, FY 1986.	PL 99–145 Sec 106	1274
Limitation on obligations	PL 99–145 Sec 106	1274
	PL 98–525 Sec 105	1294
Cooperative research and development projects		
Allied countries	10 USC 2350a	650
Credit accounts		
Establishment of	PL 108–287 Sec 8018	729
Cross-servicing agreements with the United States.	10 USC 2342	642
Defense Capabilities Initiative		
Report to Congress	PL 106–65 Sec 1039	864
Defense industrial cooperation	PL 97–252 Sec 1122	1322
Deterrence requirements		
Report to Congress	PL 100–180 Sec 1001	1250
Enlargement of		
Report to Congress	PL 105–85 Sec 1223	950

NATO—Continued
Enlargement of—Continued
Report to Congress—Continued
PL 104–201 Sec 1048 971
Sense of Congress ..... PL 105–85 Sec 1223 950
PL 105–85 Sec 1224 951
European air defense agreements
Authority of Secretary of Defense .... PL 98–525 Sec 1007 1306
Findings of Congress ..... PL 103–337 Sec 1302(a) 1011
Force reductions
Implications of ..... PL 101–189 Sec 902 1188
Future of
Study by North Atlantic Assembly .. PL 100–180 Sec 1003 1252
Increased defense spending by allies ..... PL 98–525 Sec 1001 1301
Infrastructure
Appropriations authorization ..... PL 102–484 Sec 1301 1070
PL 102–190 Sec 2502 1140
U.S. contributions to ..... PL 103–160 Sec 1401(b) 1040
PL 102–484 Sec 1301 1070
PL 102–190 Sec 2501 1139
PL 101–510 Sec 2501 1167
Installation costs
Allied sharing ..... PL 103–337 Sec 1304 1012
Member country mission assignments
Report to Congress ..... PL 100–463 Sec 8125 1233
Member nations
Reduction of forces ..... PL 101–189 Sec 912 1190
Military equipment
Standardization agreements ..... 10 USC 2457 669
Military infrastructure
Recovering U.S. investment in ..... PL 103–337 Sec 1305(b) 1013
New members
Warsaw Initiative Funds availability. PL 108–375 Sec 1224 716
North Atlantic Treaty
Report to Congress ..... PL 103–160 Sec 1411(c) 1044
Review of ..... PL 102–484 Sec 1314 1073
North Atlantic Treaty of 1949
Report to Congress ..... PL 102–484 Sec 1314(b) 1074
Nuclear posture
Report to Congress ..... PL 98–94 Sec 1105 1317
Nuclear weapons
Modernization ..... PL 100–456 Sec 1004 1221
Partnership for Peace Program countries
Payment of participants travel expenses. PL 107–314 Sec 1202 777
Prague Capabilities Commitment ..... PL 108–136 Sec 1231 752
Report to Congress ..... PL 108–136 Sec 1231(b) 753
Report to Congress ..... PL 98–94 Sec 1101 1313
Residual value credits
Separate accounts for ..... PL 108–287 Sec 8018 729
Response Task Force
Findings of Congress ..... PL 108–136 Sec 1231 752
Roles and missions support
Contributions to U.S. incurred costs PL 103–337 Sec 1313 1015
SEASPARROW Cooperative Program .... PL 98–525 Sec 1004 1305
U.S. commitment
Force requirements ..... PL 101–189 Sec 901 1187
U.S. credits and liabilities
Limitation on ..... 10 USC 2347 646
Liquidation of ..... 10 USC 2345 645
U.S. forces
Certification and consideration ..... PL 101–510 Sec 2802 1170
Future agenda ..... PL 101–510 Sec 2802 1170
Report to Congress ..... PL 101–189 Sec 912 1190
Sense of Congress ..... PL 101–189 Sec 922 1198
U.S. membership in ..... PL 83–665 Sec 408 484

NATO—Continued
U.S. military in
Findings of Congress ..... PL 103–160 Sec 1411(a) 1042
Sense of Congress ..... PL 103–160 Sec 1411(b) 1044
PL 102–484 Sec 1301(a)(2) ... 1070
PL 102–190 Sec 1041 1122
U.S. military in Europe
Combat-to-support ratio ..... PL 98–94 Sec 1106 1318
Limitation on ..... PL 98–94 Sec 1103 1315
U.S. receipts
Credited at option of Secretary of Defense. 10 USC 2346 645
U.S. support of forces in Europe
Sense of Congress ..... PL 100–180 Sec 1002 1251
Using U.S. military installations
Study on ..... PL 101–510 Sec 2503 1168
Withdrawal of U.S. forces from Kosovo
Benchmarks for conditions for ..... PL 106–398 Sec 1212 831
NATO Enlargement Facilitation Act of 1996
Findings of Congress ..... PL 107–187 Sec 2 444
NATO Participation Act of 1994
Countries eligible for assistance
Assistance authorization ..... PL 107–187 Sec 5 446
Findings of Congress ..... PL 107–187 Sec 2 444
Slovakia
Assistance eligibility ..... PL 107–187 Sec 4 446
NATO-U.S. relations
Common funded budget
U.S. contribution to ..... PL 105–261 Sec 1006 901
Expansion of
Military capabilities ..... PL 105–261 Sec 1222 911
U.S. share of costs ..... PL 105–261 Sec 1221 911
Findings of Congress ..... PL 107–187 Sec 2 444
NATO, Strategic Concept of
Legal impact on the United States
Report to Congress ..... PL 106–65 Sec 1221 877
Natural Resources Risk Remediation Fund
Supplemental appropriations, 2003 ..... PL 108–11 Title I 9
Naval vessels, U.S.
Aggregate not included value of excess defense articles. PL 106–280 Sec 602 459
Coast Guard
Drug-interdiction assistance ..... PL 99–145 Sec 1421 1288
Containing polychlorinated biphenyls
Report to Congress ..... PL 105–85 Sec 1026 928
Defense Vessels Transfer Program Account. PL 106–280 Sec 605 460
Disposal of
Certification required ..... 10 USC 7308 691
Drug-interdiction areas
Assigning Coast Guard personnel .... PL 99–145 Sec 1421 1288
Larger or newer
Lease to foreign countries ..... 10 USC 7307 690
Lease to foreign countries ..... 10 USC 7307(b) 690
Transfer of
Requirements for ..... PL 106–280 Sec 604 459
Sense of Congress ..... PL 106–280 Sec 607 460
Transfer to Bahrain ..... PL 104–106 Sec 1012 988
Transfer to Brazil ..... PL 106–280 Sec 601(a) 459
PL 105–85 Sec 1025 927
Transfer to Chile ..... PL 106–280 Sec 601(b) 459
Transfer to Egypt ..... PL 105–85 Sec 1025 927
PL 104–106 Sec 1012 988
Transfer to Greece ..... PL 106–280 Sec 601(c) 459
Transfer to Israel ..... PL 105–85 Sec 1025 927
Transfer to Malaysia ..... PL 105–85 Sec 1025 927
Transfer to Mexico ..... PL 105–85 Sec 1025 927
Transfer to Oman ..... PL 104–106 Sec 1012 988

Naval vessels, U.S.—Continued		
Transfer to Taipei Economic and Cultural Representative Office.	PL 105–85 Sec 1025	927
Transfer to Thailand	PL 105–85 Sec 1025	927
Transfer to Turkey	PL 106–280 Sec 601(d)	459
Transfer to United Arab Emirates	PL 104–106 Sec 1012	988
Transfers to foreign countries		
Authorization	PL 108–375 Sec 1013	697
	PL 107–107 Sec 1011	816
	PL 106–398 Sec 1013	826
	PL 106–65 Sec 1017–1018	856
	PL 106–261 Sec 1235	913
Naval vessels		
LST 325		
Authorization for towing assistance	PL 106–570 Sec 502	493
Nuclear, biological, and chemical weapons		
Report to Congress		
Technology transfer	PL 102–190 Sec 1097	1136
Nicaragua-U.S. relations		
Use of U.S. Armed Forces		
Sense of Congress	PL 100–456 Sec 1304	1228
	PL 100–180 Sec 1405	1262
	PL 99–145 Sec 1451	1292
Nicaraguan Democratic Resistance		
Additional assistance	PL 100–276 Sec 3	285
Limitation on source of funds for	PL 99–661 Sec 1351	1269
Yatama Indians		
Appropriations, 1989	PL 100–276 Sec 3(g)	287
Nicholson, Arthur D., Jr.		
Murder of		
Sense of Congress	PL 99–661 Sec 1368	1270
Non-NATO		
Cross-servicing agreements with the United States		
Report to Congress	10 USC 2349a	648
Nonproliferation		
Ballistic missiles		
Sense of Congress	PL 108–375 Sec 1212	714
Initiatives for Proliferation Prevention		
Funding authorization	PL 105–261 Sec 3133(a)	919
Initiatives for Proliferation Prevention Program		
Funding limitation	PL 107–314 Sec 4302	799
International activities		
Support for	PL 102–511 Sec 509	93
Nuclear Cities Initiative		
Funding authorization	PL 105–261 Sec 3133(b)	919
Funding requirements	PL 107–314 Sec 4302(b)	800
Nonproliferation and export control training in the United States		
Appropriations authorization	PL 106–280 Sec 302	452
Nonproliferation Assistance Coordination Act of 2002.	PL 107–228 Sec 1331	431
Nonproliferation of nuclear weapons		
(see Nuclear weapons, nonproliferation activities)		
North Atlantic Treaty		
Review of		
Sense of Congress	PL 102–484 Sec 1314	1073
North Atlantic Treaty Organization		
(see NATO)		
North Korea-U.S. relations		
Ballistic missile threat		
Report to Congress	PL 106–398 Sec 232	822

North Vietnam-U.S. relations
(see Indochina War)
(see Vietnam-U.S. relations)
Northern Ireland and Ireland
Promoting reconciliation ..... PL 99–415 355
Nuclear Cities Initiative
Commercial programs proposals
Economic effects evaluation ..... PL 107–314 Sec 4302(b) 800
Department of Energy
Expanding activities under ..... PL 107–314 Sec 4304 803
Funding authorization ..... PL 107–314 Sec 4304(b) 803
Funding authorization ..... PL 105–261 Sec 3133(b) 919
Funding requirements ..... PL 107–314 Sec 4302(b) 800
Secretary of Energy
Funding limitation ..... PL 107–314 Sec 4304(d) 803
PL 107–314 Sec 4304(e) 804
Nuclear facilities
Eastern Europe
Safety of ..... PL 102–484 Sec 3202 1110
Former Soviet Union
Safety of ..... PL 102–484 Sec 3202 1110
Former Soviet Union and Eastern Europe
U.S. policy on ..... PL 102–484 Sec 3202(b) 1111
Nuclear materials
Disposal of
Former Soviet Union ..... PL 102–511 Sec 510 95
Russian Federation
Accelerated return to ..... PL 107–314 Sec 3160 793
Security of
International program to strengthen PL 107–314 Sec 3158 792
Sense of Congress ..... PL 107–314 Sec 3161 793
Vulnerable worldwide sites
Sense of Congress ..... PL 108–375 Sec 3132 720
Nuclear materials protection and cooperation program funds
On-site managers ..... PL 108–136 Sec 3125 757
Use outside former Soviet Union ..... PL 108–136 Sec 3124 740
Nuclear Materials Protection, Control, and Accounting Program
Funding limitation ..... PL 107–314 Sec 4303(c) 802
Report to Congress ..... PL 107–314 Sec 4303 802
Russian access policy ..... PL 107–314 Sec 4303(c)(2) 803
Nuclear nonproliferation sciences
Fellowships in ..... PL 108–375 Sec 3134 724
South Asia
U.S. policy on ..... PL 107–228 Sec 1601 438
U.S. objectives in South Asia
Report to Congress ..... PL 107–228 Sec 1601 438
Nuclear Nonproliferation Fellowships
Program established ..... PL 108–375 Sec 3134 724
Nuclear power
Cuba
Juragua power plant ..... PL 104–114 Sec 111 241
Nuclear Security Initiative Act of 2003 ..... PL 108–136 Sec 3601 759
Nuclear Security, Administrator of
Cooperative threat reduction
Program transfer ..... PL 107–314 Sec 3151 786
Research and development program PL 107–314 Sec 3155 789
Nuclear Nonproliferation Fellowships .... PL 108–375 Sec 3134 724
Russia plutonium production
Program transfer ..... PL 107–314 Sec 3151 786
Nuclear stockpile weapons
Remanufacture of ..... PL 101–510 Sec 3131 1176
Nuclear Test Ban Readiness Program
Findings of Congress ..... PL 107–314 Sec 4207 794
U.S. nuclear weapons stockpile
Program supporting ..... PL 107–314 Sec 4207(b) 795

Nuclear test readiness postures
Report to Congress ..... PL 107–314 Sec 4208 796
Nuclear weapons
Atmospheric testing
Funding prohibition ..... PL 107–314 Sec 4210 798
Commission on Maintaining United States Nuclear Weapons Expertise
Established ..... PL 104–201 Sec 3162 980
Modification of ..... PL 105–85 Sec 3163 962
Departments of Defense and Energy
Nonproliferation activities ..... PL 102–484 Sec 1503 1091
Dismantlement of
Report to Congress ..... PL 102–484 Sec 3151 1108
PL 101–510 Sec 3151 1177
Verification ..... PL 101–510 Sec 3152 1178
Disposal of
Appropriations authorization ..... PL 102–190 Sec 3141 1141
Helsinki Joint Statement
Report to Congress ..... PL 105–85 Sec 1229 957
Illegal importation prevention
Presidential certification ..... PL 104–201 Sec 229 964
Improved control over use
Report ..... PL 97–252 Sec 1123 1323
International Nonproliferation Initiative
Assistance authorization ..... PL 102–484 Sec 1505 1092
Middle East
Nonproliferation ..... PL 96–35 Sec 10 318
MX missile warhead
Funding restriction ..... PL 99–145 Sec 1426 1291
National security requirements
Report to Congress ..... PL 102–190 Sec 3142 1142
New or modified
Funding request requirements ..... PL 107–314 Sec 4209 796
Nonproliferation activities ..... PL 102–484 Sec 1503–1505 .. 1091
Support for ..... PL 106–398 Sec 1201 830
Program restrictions ..... PL 99–145 Sec 1426 1291
Programs with the PRC
Funding prohibition ..... PL 104–201 Sec 3137 979
Reliability and safety
Sense of Congress ..... PL 104–201 Sec 3163 982
Russian Federation
Reductions of ..... PL 102–484 Sec 1321 1074
Standard Missile (SM–2(N))
Funding restriction ..... PL 99–145 Sec 1426 1291
Strategic nuclear warheads dismantling
Reports to Congress ..... PL 108–136 Sec 1033 745
Tactical use of
Europe ..... PL 93–365 Sec 302 1326
Technology transfer
Report to Congress ..... PL 102–190 Sec 1097 1136
Test ban readiness program
Appropriations authorization ..... PL 102–190 Sec 3140 1141
Test monitoring equipment
Furnished to foreign governments ... 10 USC 2565 681
Testing
Limitations on ..... PL 102–190 Sec 3140 1141
Underground testing
Limitations on ..... PL 107–314 Sec 4210 798
Nuclear weapons, nonproliferation activities
Test ban treaty
Sense of Congress ..... PL 101–510 Sec 3142 1176
Nuclear winter
Report to Congress ..... PL 99–661 Sec 1371 1271

O

Oaths of allegiance
(see Loyalty)
Office of National Drug Control Reauthorization Act of 1998. PL 105–277 Sec 701 376
Offset policy
Arms sales
Technology transfer conditions ..... 10 USC 2532 673
Military equipment purchases
Technology transfer requirements ... PL 100–456 Sec 825 1219
Technology transfer
U.S. policy on ..... PL 100–456 Sec 825 1219
U.S. restrictions on ..... 10 USC 2532 673
Oil
Angola produced
U.S. purchase restrictions ..... PL 99–661 Sec 316 1267
Persian Gulf
Disruption plans ..... PL 100–180 Sec 1222 1256
United Nations Oil-for-Food Program
Access to Iraqi documents on ..... PL 108–375 Sec 1207 712
Omnibus Budget Reconciliation Act of 1990 PL 101–508 118
Operation Allied Force
Conduct of military operations
Report to Congress ..... PL 106–65 Sec 1211 873
Costs to United States
Report to Congress ..... PL 106–398 Sec 1221(a) 833
Operation Desert Shield
Costs of
Emergency funding requirements .... PL 101–508 Sec 13101 118
Operation Desert Storm
(see also Persian Gulf conflict)
Costs of
Report to Congress ..... PL 102–25 Sec 401 36
Costs offset by foreign country contributions
Report to Congress ..... PL 102–25 Sec 401 36
Supplemental authorizations
Extension of ..... PL 102–190 Sec 1201 1139
Operation Enduring Freedom
Emergency appropriations
Authorization for ..... PL 108–375 Sec 1501 718
Estimated FY 2006–2011 costs
Report to Congress ..... PL 108–287 Sec 9012 736
Military operations conducted under
Report to Congress ..... PL 107–314 Sec 1043 774
War on terrorism
Appropriations authorization ..... PL 107–314 Sec 1503–1506 .. 783
Operation Enhanced Southern Watch
Appropriations authorization, FY 1996 .. PL 104–106 Sec 1005 987
Report to Congress ..... PL 104–201 Sec 1041 969
Operation Iraqi Freedom
Conduct of
Report to Congress ..... PL 108–136 Sec 1202 747
Emergency appropriations
Authorization for ..... PL 108–375 Sec 1501 718
Estimated FY 2006–2011 costs
Report to Congress ..... PL 108–287 Sec 9012 736
Injured Iraqi children
Medical assistance for ..... PL 108–136 Sec 1201 746
Post-major combat operations
Report to Congress ..... PL 108–375 Sec 1042 700
Operation Noble Eagle
War on terrorism
Appropriations authorization ..... PL 107–314 Sec 1503–1506 .. 783
Operation Provide Comfort
Appropriations authorization, FY 1996 .. PL 104–106 Sec 1004 987

Operation Provide Comfort—Continued
Report to Congress ..... PL 104–201 Sec 1041 969
Organization for Economic Cooperation and Development (OECD)
Nuclear security
Dialogue with the IAEA ..... PL 108–136 Sec 3631 761
Organization for the Prohibition of Chemical Weapons (OPCW) PL 107–228 Sec 1605 452
Organization of African Unity
Conflict resolution
Improving capabilities ..... PL 103–381 Sec 3 192
Organization of American States
Inter-American Convention Against Corruption. PL 106–309 Sec 202 503
Sanctions
U.S. foreign aid ..... PL 86–735 Sec 2 291
Outer space
Independent states of the former Soviet Union
Discussions with ..... PL 102–511 Sec 601 97
Space Defense System
Testing moratorium on ..... PL 100–180 Sec 208 1239
Space launch modernization
Allocation of appropriations ..... PL 103–337 Sec 211(d) 1004
Limitations on obligations ..... PL 103–337 Sec 211(g) 1004
Policy ..... PL 103–337 Sec 211 1003
Overseas Contingencies Program
Department of Defense
Appropriations authorization, FY 2004. PL 108–136 Sec 301(20) 740
Overseas Contingency Operations Transfer Account
Transfer of funds from
Report to Congress ..... PL 108–287 Title II 736
Overseas Contingency Operations Transfer Fund
Appropriations authorization, FY 1998 .. PL 105–85 Sec 301 925
Appropriations authorization, FY 2000 .. PL 106–65 Sec 301(24) 850
Appropriations authorization, FY 2005 .. PL 108–375 Sec 301(20) 694
Transfer of funds from
Report to Congress ..... PL 108–287 Sec 8114 732
Overseas Military Facility Investment Recovery Account, Department of Defense
Established ..... PL 101–510 Sec 2921(c) 1171
Oversight of ..... PL 101–510 Sec 2921(g) 1174
Overseas Operations Transfer Fund
Appropriations authorization, FY 2002 .. PL 107–107 Sec 301(a)(24) ... 813
Overseas Private Investment Corporation
Delegation of authority to ..... 44 FR 57521 Sec 1–6 578
Established ..... EO 11579 583
Former Soviet Union programs
Additional funding ..... PL 102–511 Sec 308 84
Investment Advisory Council
Report to Congress ..... PL 106–200 Sec 123(c)(2) 177
Sub-Saharan Africa
Equity funds ..... PL 106–200 Sec 123 176
Investment Advisory Council ..... PL 106–200 Sec 123(c) 176
Overseas Workload Program
Contract bidding
Firms eligible ..... 10 USC 2349 647
Report to Congress ..... PL 100–180 Sec 1021 1254

P

Pacific Rim-U.S. relations
Foreign critical technology
Monitoring and assessment program 10 USC 2518 672

Pacific Rim-U.S. relations—Continued
Regional security
Findings of Congress ..... PL 102–190 Sec 1043 1123
Pakistan—Exemption and Waiver of Foreign Assistance Prohibitions. PL 107–57 345
Pakistan-U.S. relations
Export Administration Act sanctions
Waiver authority ..... PL 107–57 Sec 2 346
Foreign aid
Assistance waivers ..... PL 107–57 Sec 1 345
PL 107–57 Sec 3 346
Logistical support in Iraq
Reimbursement for ..... PL 108–11 Sec 1310 11
Missile Technology Control Regime sanctions
Waiver authority ..... PL 107–57 Sec 2 346
Sanctions
Waiver of ..... PL 106–79 Sec 9001 348
Palestine Authority
Commitments to Israel
Findings of Congress ..... PL 107–228 Sec 602 293
Sanctions ..... PL 107–228 Sec 604 294
Palestine Liberation Organization-U.S. relations
Commitments to Israel
Findings of Congress ..... PL 107–228 Sec 602 293
Presidential determination ..... PL 107–228 Sec 604 294
Sanctions ..... PL 107–228 Sec 604 294
Consultation with Congress ..... PL 103–125 Sec 3(b)(1) 308
Continued PLO compliance ..... PL 103–125 Sec 3(b)(3) 309
Peace process
Consultation with Congress ..... PL 104–107 Sec 604(b)(1) 298
PL 103–236 Sec 583(b)(1) 305
Findings of Congress ..... PL 103–125 Sec 2 308
PL 103–236 Sec 582 304
PL 104–107 Sec 602 296
Foreign aid requirements ..... PL 104–107 Sec 604(c) 300
PLO commitments ..... PL 104–107 Sec 604(b)(4) 298
PL 103–236 Sec 583(b)(4) 305
PLO compliance ..... PL 104–107 Sec 604(b)(3) 298
Presidential certification ..... PL 104–107 Sec 604(b)(2) 298
Provisions eligible ..... PL 103–125 Sec 3 308
Provisions eligible for suspension .... PL 104–107 Sec 604 297
PL 103–236 Sec 583 304
Sense of Congress ..... PL 104–107 Sec 603 297
Suspending provisions ..... PL 103–125 Sec 3 308
Suspension of certain provisions ..... PL 104–107 Sec 604(d) 301
PLO commitments described ..... PL 103–125 Sec 3(b)(4) 309
Presidential certification ..... PL 103–125 Sec 3(b)(2) 309
Provisions eligible for suspension ..... PL 103–125 Sec 3(d) 309
Responses to terrorism
Report to Congress ..... PL 103–236 Sec 583(b)(6) 306
Panama Canal-U.S. relations
Realignment of military installations ..... PL 95–485 Sec 817 1325
Panama-U.S. relations
Arms sales
Eligibility ..... PL 104–164 Sec 154 538
General Manuel Noriega
Sense of Congress ..... PL 100–456 Sec 1303 1227
Military aid
Limitation on ..... PL 100–456 Sec 1302 1227
U.S. policy toward ..... PL 100–180 Sec 1403 1260
United States Southern Command
Sense of Congress ..... PL 100–456 Sec 1301 1226
Partnership for Peace
Excess defense articles
Transportation funds ..... PL 104–164 Sec 105 536

Partnership for Peace Information System Management		
Appropriations authorization, FY 1999 ..	PL 105–261 Sec 1005	901
Partnership for Peace Program		
Countries participating in		
Payment of travel expenses	PL 107–314 Sec 1202	777
Paul D. Coverdell Fellows Program Act of 2000.	PL 106–309 Sec 408	1587
Paul D. Coverdell Peace Corps Headquarters	PL 107–21	1584
	PL 107–21 Sec 1	1584
Paul D. Coverdell World Wise Schools Act of 2002.	PL 106–570 Sec 601	1585
Peace Corps	EO 12137	1605
(see also Foreign Service)		
Activities		
Report to Congress	PL 87–293 Sec 11	1567
Appointments and assignments	PL 87–293 Sec 7(a)	1560
Nonpartisan	PL 87–293 Sec 25	1578
Appropriations authorization	PL 87–293 Sec 3	1552
Appropriations authorization, FY 1993 ..	PL 102–565	1589
Appropriations authorizations, FY 1994 and 1995.	PL 103–236 Sec 601	1588
Director of	PL 87–293 Sec 4	1554
Transfer of functions to	PL 97–113 Sec 601(b)	1581
Director, Paul D. Coverdell		
Findings of Congress	PL 106–570 Sec 602	1585
Disabled persons		
Aid to	PL 87–293 Sec 3(h)	1554
Employment with		
Limitation on length of	PL 99–83 Title XI	1592
Foreign currencies used	PL 87–293 Sec 17	1576
Foreign currency fluctuations	PL 102–565 Sec 2	1589
Foreign governments using personnel	PL 87–293 Sec 14	1571
Foreign nationals participating	PL 87–293 Sec 9	1564
Former volunteers		
In Civil Service	EO 11103	1610
Functions delegated	PL 87–293 Sec 4	1554
Funds	PL 87–293 Sec 15(a)	1572
Training expenses	PL 87–293 Sec 15(c)	1573
Utilization of	PL 87–293 Sec 15	1572
Headquarters offices	PL 107–21 Sec 1	1584
Health care services provided		
Evaluation of	PL 102–565 Sec 3	1589
Independent from ACTION	PL 87–293 Sec 2A	1552
Interdepartmental cooperation	EO 12137 Sec 1–602	1607
International organizations using personnel.	PL 87–293 Sec 14	1571
Language proficiency	PL 87–293 Sec 24	1577
National Advisory Council		
Termination of advisory bodies with similar functions.	PL 99–83 Title XI	1592
Personnel	PL 87–293 Sec 5	1555
	PL 87–293 Sec 6	1559
	PL 87–293 Sec 7	1560
Allowance	PL 87–293 Sec 5(c)	1555
As U.S. Government employees	PL 87–293 Sec 5(f)–(h)	1557
Benefits to children	PL 87–293 Sec 5(m)–(n)	1559
Career counseling in the United States.	PL 87–293 Sec 5(k)	1558
Certificate of service	EO 11103 Sec 3	1610
Compensation of	PL 89–134 Sec 5	1594
	PL 89–134 Sec 5	1594
Country representative	PL 87–293 Sec 7(c)	1563
Foreign Service Act applicable	PL 87–293 Sec 7(a)	1560
Health care of	PL 87–293 Sec 5(e)	1556

Peace Corps—Continued
Personnel—Continued
In judicial or administrative proceedings abroad. PL 87–293 Sec 5(l) 1559
Oath upon enrollment ..... PL 87–293 Sec 5(j) 1558
Selection ..... PL 87–293 Sec 5(a) 1555
Personnel system
Implementation of ..... PL 89–134 Sec 5 1594
President
Functions reserved to ..... EO 12137 Sec 1–3 1606
Programs in former Soviet Union ..... PL 102–565 Sec 5 1590
Promoting Americans' understanding of other people. PL 87–293 Sec 18 1576
Purpose stated ..... PL 87–293 Sec 2 1552
Report to Congress ..... PL 99–83 Title XI 1592
Seal and name rights ..... PL 87–293 Sec 19 1577
Security investigation ..... PL 87–293 Sec 22 1577
Student loans
Conditions for cancellation ..... PL 99–498 1596
Exceptions for repayment ..... PL 99–498 1596
Training of volunteers ..... PL 87–293 Sec 8 1563
Transfer of functions
Report to Congress ..... PL 97–113 Sec 601(f) 1583
Transfer of property from ACTION ..... PL 97–113 Sec 601(c) 1581
Universal Military Training and Service Act. PL 87–293 Sec 23 1577
Peace Corps Act ..... PL 87–293 1551
Authorities and powers of President ..... PL 87–293 Sec 10 1565
Peace Corps Fellows/USA Program
Redesignation as Paul D. Coverdell Fellows Program. PL 106–309 Sec 408(c) 1587
Peace Corps National Advisory Council ..... PL 87–293 Sec 12 1568
Report to Congress ..... PL 87–293 Sec 12(i) 1570
Peace process support in Liberia
Sense of Congress ..... PL 102–270 211
Peaceful Nuclear Explosions Treaty
Verification measures
Agreement on ..... PL 107–314 Sec 4207 795
Peacekeeping activities
Reports to Congress
Bosnia and Herzegovina ..... PL 105–85 Sec 1205 942
Using Department of Defense funds
Prohibition on ..... 10 USC 405 625
Persian Gulf
Commendation of U.S. forces ..... PL 100–180 Sec 1401 1259
Stinger missiles
Prohibition on ..... PL 106–280 Sec 705 461
U.S. strategic posture in
Report to Congress ..... PL 102–484 Sec 1331 1077
Persian Gulf conflict
Appropriations authorization
Transfer authority ..... PL 102–25 Sec 103 34
Conduct of
Report to Congress ..... PL 102–25 Sec 501 40
Supplemental authorization
Relative to Public Law 101–510 ..... PL 102–25 32
Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991. PL 102–25 32
Persian Gulf crisis
Foreign country contributions
Report to Congress ..... PL 102–25 Sec 402 38
Persian Gulf Regional Defense Fund
Establishment of ..... PL 102–25 Sec 102 34
Peru-U.S. relations
Drug control
Additional eradication resources ..... PL 105–277 Sec 822 367
Appropriations authorization ..... PL 105–85 Sec 1033 930
Foreign aid ..... PL 105–277 Sec 822 367

Peru-U.S. relations—Continued
Drug control—Continued
Report to Congress ..... PL 105–277 Sec 822(b) 367
U.S. military personnel
Compensation for death and injury PL 103–160 Sec 1434 1049
PL 103–139 Sec 8099 1061
Pesticide Monitoring Improvements Act of 1988. PL 100–418 Sec 4701 1547
Philippines-U.S. relations
Earthquake relief assistance effort
Commendation of ..... PL 101–510 Sec 1472 1165
Economic Support Fund
Supplemental appropriations, 2003 PL 108–11 Ch 5 14
Military aid, U.S.
Sense of Congress ..... PL 106–280 Sec 709 463
Military bases in ..... PL 100–456 Sec 1308 1229
PL 480
(see Public Law 480)
Plan Colombia
Costs to support
Report to Congress ..... PL 106–246 Sec 3204(e) 224
Drug control costs
Report to Congress ..... PL 106–246 Sec 3204(e) 224
Plutonium
Independent states of the former Soviet Union
Study and report on purchasing ..... PL 108–136 Sec 3123 740
Production of
Cessation by Commonwealth of Independent States. PL 102–484 Sec 3151 1108
Cessation by Soviet Union ..... PL 101–510 Sec 3151 1177
Reprocessing
U.S. policy on ..... PL 103–160 Sec 1163 1035
Plutonium and uranium
Secure stockpiles of
Sense of Congress ..... PL 107–314 Sec 3162 793
Poland-U.S. relations
Agricultural assistance
Report to Congress ..... PL 101–179 Sec 701 145
American Children's Hospital
Zablocki Outpatient Facility ..... PL 98–266 153
Central European Small Business Enterprise Development Commission. 67 Stat 232 160
Credit unions
U.S. policy on ..... PL 101–179 Sec 206 136
Environment
Report to Congress ..... PL 101–179 Sec 703 145
Foreign aid ..... PL 100–418 Sec 2222 150
Medical supplies ..... PL 100–418 Sec 2227 152
Labor market reforms
Assistance in ..... PL 101–179 Sec 202 133
Private sector development
Assistance in ..... PL 101–179 Sec 203 134
Foreign aid ..... PL 101–179 Sec 201(b) 129
Small business
Management and technical assistance. 67 Stat 232 160
Support for East European Democracy (SEED)
Additional program actions ..... PL 101–179 Title VI 143
Agricultural assistance ..... PL 101–179 Sec 103 127
Democratic institutions support ..... PL 101–179 Sec 501 141
Educational, cultural, and scientific activities. PL 101–179 Title IV 138
Emergency assistance ..... PL 101–179 Sec 102 126
Environmental programs ..... PL 101–179 Sec 502 141
Multilateral support for ..... PL 101–179 Sec 101 125
Peace Corps programs ..... PL 101–179 Sec 204 135

Poland-U.S. relations—Continued
Support for East European Democracy (SEED)—Continued
Private sector development ..... PL 101–179 Title II 129
Trade and investment programs ..... PL 101–179 Title III 136
Support for East European Democracy (SEED) Program
Delegation of authority ..... EO 12703 162
Polish-American Enterprise Fund
Annual report ..... PL 101–179 Sec 201(p) 133
Appropriations authorization ..... PL 101–179 Sec 201(b) 129
Recordkeeping requirements ..... PL 101–179 Sec 201(o) 132
U.S. Agency for International Development grants. PL 101–179 Sec 201(e) 130
Political tests
(see Loyalty)
Population planning
Colombia
Foreign aid limitation ..... PL 106–246 Sec 3206 225
POW/MIA
China-U.S. relations
Task Force ..... PL 103–337 Sec 1033 1008
Family members
Assistance to ..... PL 103–337 Sec 1031 1007
North Korea
Sense of Congress ..... PL 103–337 Sec 1035 1009
Secretary of Defense
Report to Congress ..... PL 103–337 Sec 1032 1008
POWs
Families of
Support center ..... PL 102–190 Sec 1083 1135
Information on
Public availability of ..... PL 102–190 Sec 1082 1132
President
(see also Reports to Congress)
Arms sales
Delegation of functions ..... EO 11958 Sec 1 579
Certification
Ethiopian peace ..... PL 102–274 Sec 8 209
Zimbabwe democratic reforms ..... PL 107–99 Sec 4(d) 166
Certifications and recommendations
Delegation of functions ..... EO 13346 595
Council on Counter-Narcotics
Establishment of ..... PL 105–277 Sec 709 376
Developing countries
Agricultural commodity sales ..... PL 83–480 Sec 101 1341
Enterprise for the Americas Facility
Consultation with Congress ..... PL 83–480 Sec 615 276
Foreign aid program administration
Reserved functions ..... EO 12163 Sec 1–701 561
Foreign aid programs
Administration of ..... EO 12163 555
Funding requests
Report to Congress ..... 10 USC 113(m) 599
Iraq stabilization strategy
Report to Congress ..... PL 108–375 Sec 1204 708
Military aid
Israel ..... PL 93–199 481
Notification to Congress
Transfer of defense articles to Israel PL 106–280 Sec 112(c) 451
Offset policy
Establishment of ..... 10 USC 2532 673
Peace Corps
Functions reserved ..... EO 12137 Sec 1–3 1606
Preventing import of illegal biological, chemical, and nuclear weapons
Certification ..... PL 104–201 Sec 229 964

President—Continued
Report to Congress
Waiver of aid prohibition to terrorist countries. 10 USC 2249a(b)(2) 637
U.S. military contingency operations
Budget justification documents ..... PL 107–248 Sec 8132 810
Waivers, determinations, and reports to Congress
Delegation of functions ..... EO 13346 595
President's Drug Policy Council
Establishment of ..... EO 12992 410
President's Emergency Food Assistance Act of 1984. PL 98–473 Sec 301 1459
Prisoners of war
(see POWs)
Private enterprise
(see also Overseas Private Investment Corporation)
Agricultural commodity sales ..... PL 83–480 Sec 201 1346
Currency uses ..... PL 83–480 Sec 203 1350
Private voluntary organizations
Agricultural commodity sales
Using currencies ..... PL 83–480 Sec 203 1350
Protection Against Nuclear Terrorism program
Implementation of
Appropriations authorization ..... PL 107–228 Sec 1305 420
Public Law 480
(see also Agricultural Trade Development and Assistance Act of 1954)
McGovern-Dole grants
Appropriations, 2005 ..... PL 108–447 Title V 1437
Ocean freight differential grants
Appropriations, 2005 ..... PL 108–447 Title V 1437
Operation of
Review ..... PL 95–113 Sec 1210 1463
Programs
Appropriations, 2005 ..... PL 108–447 Title V 1436
Title II grants
Appropriations, 2005 ..... PL 108–447 Title V 1437

R

Reform in Emerging New Democracies and Support and Help for Improved Partnership with Russia, Ukraine, and Other New Independent States, Act for. PL 103–199 67
Refugee assistance
Africa ..... PL 99–8 Sec 3 213
Refugees
Iraq
Humanitarian assistance ..... PL 102–45 311
Regional Defense Counterterrorism Fellowship Program
Department of Defense assistance ..... 10 USC 2249c 638
Reports to Congress
ABM Treaty absence
Effect on strategic offensive and defensive programs. PL 100–180 Sec 233 1247
Advisory Committee for the Studies of Eastern Europe and the Independent States of the Former Soviet Union. PL 98–164 Sec 807 158
Afghan National Army
Training and equipment funding ..... PL 108–287 Sec 9006 734
Afghanistan
Military operations and reconstruction activities. PL 108–287 Sec 9010 735

Reports to Congress—Continued
Afghanistan coalition forces
Funding availability ..... PL 108–287 Sec 9009 735
Africa
Conflict resolution ..... PL 103–381 Sec 9 194
Africa, Horn of
Relief and recovery program ..... PL 102–274 Sec 9 210
Agricultural commodity sales ..... PL 83–480 Sec 407(f) 1370
Foreign currency uses ..... PL 81–439 Sec 416(b)(9)(B) .. 1433
Allied burden sharing
Efforts to increase ..... PL 105–85 Sec 1221(c) 949
PL 104–201 Sec 1084(c) 978
Anglo-Irish Agreement
U.S. contributions in support of ..... PL 99–415 Sec 6 358
Arctic Military Environmental Cooperation program
Review of ..... PL 108–136 Sec 324 757
Armed Forces
Contingency operations ..... 10 USC 113(m) 599
Roles and missions ..... PL 102–484 Sec 901 1066
Arms control agreement
Verification of ..... PL 101–510 Sec 3151 1177
PL 101–189 Sec 903 1189
Arms exports
Dual-use technologies ..... PL 103–160 Sec 1422 1045
Arms sales
Brokers activities ..... PL 107–228 Sec 1205 413
Iraq or Iran ..... PL 102–484 Sec 1607 29
License approvals ..... PL 107–228 Sec 1205 413
Asia
U.S. military presence in ..... PL 102–190 Sec 1043(c) 1124
Ballistic missile defenses
Russian Federation/United States/NATO cooperation. PL 108–136 Sec 3622(b) 759
Ballistic missile launch early warning data
Sharing and exchange of ..... PL 106–398 Sec 1232 835
Belarus
Arms sales ..... PL 108–347 Sec 7 60
Bosnia and Kosovo peacekeeping operations
Funding limitation waiver ..... PL 107–107 Sec 1005(b) 815
PL 106–398 Sec 1005(b) 825
PL 106–65 Sec 1006(a)(2) 855
Bosnia peacekeeping operations
Funding limitation waiver ..... PL 106–261 Sec 1004(c) 825
Bosnia-Herzegovina
Peacekeeping deployment ..... PL 103–337 Sec 1402 1025
Burden sharing contributions ..... 10 USC 2350j 663
Careers in nonproliferation
Expenditures to encourage ..... PL 107–314 Sec 4304(g) 805
Caribbean area free trade zone
Effect on United States ..... PL 102–532 Sec 5 268
Central European Small Business Enterprise Development Commission. 67 Stat 232 161
Chemical and biological warfare readiness. PL 103–160 Sec 1703 1058
Chemical weapons
NATO member nations ..... PL 99–145 Sec 1411(g) 1280
Stockpile destruction ..... PL 107–314 Sec 141(b) 772
PL 106–65 Sec 141(a)(3) 848
Transfer to Johnston Island ..... PL 101–510 Sec 364 1147
U.S. stockpile destruction ..... PL 99–145 Sec 1412(g) 1284
Chemical weapons storage sites
Operational changes ..... PL 106–65 Sec 142 849
Chemical, biological, radiological, or nuclear attack
U.S. preparedness ..... PL 104–106 Sec 379 986

Reports to Congress—Continued
China
Espionage and other intelligence activities. PL 106–65 Sec 3151 885
Military capability ..... PL 105–85 Sec 1226 954
Military power ..... PL 106–65 Sec 1202 871
Significant technology transfers to .. PL 107–107 Sec 1223(b) 820
Task force to monitor products of forced or prison labor. PL 106–286 Sec 505 341
Civilian law enforcement
Assistance by U.S. military ..... PL 106–65 Sec 1027(b) 860
Colombia
Drug control strategy ..... PL 106–246 Sec 3202 219
Terrorist organizations ..... PL 108–375 Sec 1021(e) 698
U.S. military activities in ..... PL 106–65 Sec 1025 860
Colombia drug control
U.S. military and civilian personnel PL 106–246 Sec 3204(f) 224
Commodity Credit Corporation
Export assistance ..... PL 95–501 Sec 603 1516
Congressional Hunger Fellows Program PL 107–171 Sec 4404(h) 1403
Congressional-Executive Commission on the People's Republic of China. PL 106–286 Sec 302(g) 333
Cost of Operation Desert Storm ..... PL 102–25 Sec 401 36
Cost-sharing agreements
Joint Data Exchange Center ..... PL 107–314 Sec 1203(a)(3) ... 778
Counter-drug activities
Expansion of support for ..... PL 106–398 Sec 1023 828
Counterterrorism and antiterrorism activities
Oversight of ..... PL 105–85 Sec 1051 935
Cuba
Assistance from any independent state of the former Soviet Union. PL 104–114 Sec 106 237
Commerce with and assistance from other countries. PL 104–114 Sec 108 238
U.S. economic assistance ..... PL 104–114 Sec 202(g) 249
Debts, foreign
Relief of ..... PL 83–480 Sec 618 278
Defense authorizations, FY 1994
Transfer of ..... PL 103–160 Sec 1101(b) 1034
Defense contractors
Transactions with terrorist countries. PL 103–160 Sec 843 1033
Defense Cooperation Account
Transfer of funds ..... PL 102–25 Sec 105–106 35
Defense exports
Loan guarantees ..... PL 108–287 Sec 8065 731
Defense offsets
Multilateral treaty feasibility ..... PL 106–113 Sec 1248(b) 474
Democracy Corps
Activities ..... PL 102–511 Sec 401(i) 86
Department of Defense
Antiterrorism activities ..... PL 105–85 Sec 1052(e) 937
Counterdrug activities ..... PL 105–277 Sec 851(d) 373
Polychlorinated biphenyl wastes ..... PL 105–261 Sec 324 895
Programs combating terrorism ..... 10 USC 229(d) 611
Rapid Assessment and Initial Detection teams. PL 106–65 Sec 1036 862
Security and reconstruction activities in Iraq. PL 108–136 Sec 1203 748
Transported humanitarian relief supplies. PL 98–525 Sec 1540(e) 1310
Department of Defense Appropriations Act, 1990
Recurring provisions ..... PL 101–189 Sec 1624 1204
Department of Defense operations
Security or counterintelligence failures. 10 USC 2723 686

Reports to Congress—Continued
Department of Energy
Nonproliferation monitoring ..... PL 106–398 Sec 3173 845
Developing countries
Special operations forces training .... 10 USC 2011(e) 630
Disaster assistance
Bangladesh ..... PL 100–576 Sec 5 354
Drawdown support
Prior congressional notification ..... PL 108–11 Sec 1307 10
PL 108–11 Sec 1309 10
Drug control
Andean countries ..... PL 101–623 Sec 4(b) 384
PL 101–510 Sec 1009 1156
Counter-drug activities ..... PL 101–510 Sec 1007 1155
Interdiction of vessels and vehicles PL 99–661 Sec 1373 1272
National Drug Operations Center .... PL 101–189 Sec 1213 1200
Supplemental appropriations, 2000 PL 106–246 Title III 216
Support by Department of Defense .. PL 100–456 Sec 1107 1225
Use of OH–58D helicopter ..... PL 101–510 Sec 1008 1156
Drug control in Colombia
U.S. personnel involved ..... PL 106–246 Sec 3204(f) 224
East Asia
U.S. military presence in ..... PL 101–189 Sec 915(c) 1196
Eastern Europe
Nuclear facilities safety ..... PL 102–484 Sec 3202(c) 1111
Eisenhower Exchange Fellowships, Incorporated
Appropriations authorization ..... PL 101–454 Sec 7 118
Eligible export vessels
Loan guarantees ..... 49 Stat 1985 Sec 1111(4) 554
Enterprise for the Americas Facility ..... PL 83–480 Sec 614 275
Export control mechanisms ..... PL 104–106 Sec 1324(b) 994
Export financing
Military equipment, U.S. ..... PL 101–189 Sec 825(b) 1186
Non-defense production ..... PL 101–510 Sec 4303 1178
Export loan guarantees ..... PL 104–106 Sec 1321 990
Export vessels
Loan guarantees ..... 49 Stat 1985 Sec 1111 553
Export-Import Bank
Loan authority increase ..... PL 101–510 Sec 4303 1178
Exports
Review of impact on U.S. military capability. PL 108–136 Sec 1211 751
Exports of high performance computers PL 105–85 Sec 1212 944
Financial services
Access to by poor people overseas .... PL 106–309 Sec 108 500
Food aid
Africa ..... PL 99–8 Sec 6 214
President's Emergency Food Assistance Fund. PL 98–473 Sec 304 1460
Forced labor products
Destined for the U.S. market ..... PL 105–261 Title XXXVII 922
Foreign aid
Sub-Saharan Africa ..... PL 105–385 Sec 301 188
Foreign countries
Logistical support reimbursement ... PL 108–11 Sec 1310 11
Military-based satellite access ..... PL 102–484 Sec 1363 1080
Foreign currencies
Agreements on use of ..... PL 83–480 Note 1387
Foreign Currency Fluctuations, Peace Corps Account. PL 87–293 Sec 16(h) 1576
Foreign debt
Agricultural trade ..... PL 101–624 Sec 1542(e)(2) 1421
Foreign debt cancellations ..... PL 106–113 Sec 501(f) 525
Foreign governments
Offset policy ..... PL 100–456 Sec 825(d) 1220

Reports to Congress—Continued
Foreign legal actions against U.S. persons
Remedies in response to ..... PL 108–136 Sec 1232(b) 755
Foreign market development cooperator program
Eligible trade organizations ..... PL 95–501 Sec 702(c) 1517
Foreign security forces training prohibition
Waiver of ..... PL 108–287 Sec 8076(d) 732
Foreign service officers
Specialized training ..... PL 106–87 Sec 5 531
Former Soviet Union
Commercial bank debt ..... PL 102–511 Sec 1007 105
Denuclearization ..... PL 102–484 Sec 1321(c) 1076
Forward basing of U.S. Armed Forces
Requirements for ..... PL 105–85 Sec 1043(c) 934
General Accounting Office
International Monetary Fund practices. PL 106–113 Sec 504(e) 528
World Bank AIDS Trust Fund ..... PL 106–264 Sec 131(b) 517
Global Alliance for Vaccines and Immunizations and International Aids Vaccine Initiative PL 106–264 Sec 112 513
Good Neighbor Environmental Board ..... PL 102–532 Sec 6(d) 269
Health and Human Services vaccination programs
Department of Defense support ..... PL 103–160 Sec 1705(b) 1059
Helsinki Joint Statement ..... PL 105–85 Sec 1229 957
Humanitarian assistance
Department of Defense activities ..... PL 103–160 Sec 1504 1052
Department of Defense overseas programs. PL 104–106 Sec 1311 990
Soviet Union ..... PL 102–228 Sec 302 108
Unauthorized countries ..... 10 USC 2561(d) 679
Hungary
Environmental assessment ..... PL 101–179 Sec 703 145
Immigration and Naturalization Service
Assistance by U.S. military ..... PL 106–65 Sec 1027 860
Importing narcotic raw material
U.S. policy on ..... PL 101–647 Sec 2501 389
Independent states of the former Soviet Union
Multilateral investment guarantees PL 102–511 Sec 1009 105
Nuclear facilities safety ..... PL 102–484 Sec 3202(c) 1111
Proposed obligations ..... PL 102–511 Sec 508 92
Space related trade ..... PL 102–511 Sec 603 98
Initiatives for Proliferation Prevention ... PL 107–314 Sec 4302(c) 801
Intelligence collections systems
Training exercises ..... PL 102–190 Sec 924(b) 1121
International arms control and nonproliferation strategy. PL 107–228 Sec 1309 423
International arms sales
Global code of conduct ..... PL 106–113 Sec 1262(c) 476
International Atomic Energy Agency
Assistance to Iran ..... PL 107–228 Sec 1344 435
International cooperative information exchange. PL 105–261 Sec 3160(b) 920
International Monetary Fund
Practices consistent with U.S. policies. PL 106–113 Sec 504(e) 528
Iran
Russian proliferation of weapons of mass destruction. PL 107–314 Sec 1206 779
Iraq
Foreign aid ..... PL 105–338 Sec 4(d) 24
International export of technology ... PL 101–513 Sec 586J 54

Reports to Congress—Continued
Iraq—Continued
Military operations and reconstruction activities. PL 108–287 Sec 9010 735
Natural Resources Risk Remediation Fund. PL 108–11 Title I 9
Offensive military capability ..... PL 101–513 Sec 586J(b) 55
Sanctions against ..... PL 101–513 Sec 586J(c) 55
Stabilization strategy ..... PL 108–375 Sec 1204 708
Weapons of mass destruction ..... PL 108–136 Sec 1204 750
Iraq Freedom Fund
Supplemental appropriations, 2003 PL 108–11 Title I 8
Iraq Relief and Reconstruction Fund
Advance notification ..... PL 108–11 Ch 5 12
Iraq Sanctions Act of 1992
Suspension of provisions by President. PL 108–11 Sec 1503 17
Iraqi coalition forces
Funding availability ..... PL 108–287 Sec 9009 735
Iraqi security forces
Establishing ..... PL 108–375 Sec 1204(c) 709
Israel-U.S. defense industrial cooperation. PL 102–484 Sec 205 1064
Israel-U.S. relations
Loan guarantees ..... PL 108–11 Ch 5 14
Japan
U.S. defense expenditures in ..... PL 100–456 Sec 1009(b) 1224
PL 100–180 Sec 1011 1252
Japan-U.S. security relations ..... PL 103–337 Sec 1325 1024
Joint Data Exchange Center
Plans for ..... PL 106–398 Sec 1231(c) 835
Jordan
Logistical support reimbursement ... PL 108–11 Sec 1310 11
Korea
Security situation in ..... PL 102–190 Sec 1044(c) 1126
Korean peninsula
Security situation on ..... PL 106–65 Sec 1233 879
Kosovo
Withdrawal of U.S. military from .... PL 106–398 Sec 1212 831
Land mine clearing ..... PL 103–160 Sec 306(b) 1032
Latin America and the Caribbean
Presence of Al Qaeda and associated groups. PL 108–375 Sec 1047 702
Latin America free trade zone
Effect on United States ..... PL 102–532 Sec 5 268
Less developed countries
Development and use of cooperatives. PL 106–309 Sec 401(d) 507
Major theater wars
Allied nations capabilities to control PL 106–65 Sec 1222 877
Malta-U.S. relations
Static cargo x-ray facility ..... PL 106–280 Sec 304 452
Merged or "M" accounts
Reobligations ..... PL 102–484 Sec 1003 1062
Military, U.S. ..... PL 93–365 Sec 302 1326
Dual basing ..... PL 101–510 Sec 2801 1169
Outer space control capabilities ..... PL 100–456 Sec 243 1216
Military capability assessment ..... 10 USC 113(i) 598
Military cooperation
National security impact ..... PL 103–337 Sec 1314 1016
Military equipment
Concessional exchange ..... PL 108–287 Sec 12001 737
Minuteman III ICBMs
START ..... PL 102–190 Sec 153 1115
Missile technology transfer
Control of ..... PL 101–189 Sec 1639 1207
Money laundering
Information access ..... PL 100–690 Sec 4702(d) 402

Reports to Congress—Continued
Multinational economic embargoes
Against foreign countries ..... PL 106–65 Sec 1231 878
Multinational peacekeeping activities .... PL 103–160 Sec 1502 1050
Mutual defense arrangements ..... PL 101–510 Sec 1457 1163
Mutual defense treaties
Cost-sharing agreements ..... PL 102–190 Sec 1046(e) 1128
Narcotics
Detection technologies ..... PL 105–85 Sec 1034 933
Narcotics traffickers
Extradition of ..... PL 106–246 Sec 3203 220
National Advisory Council on International Monetary and Financial Policies. PL 99–570 Sec 2018(c) 405
National Commission on Defense and National Security. PL 101–511 Sec 8104 1209
National Commission on the Use of Offsets in Defense Trade. PL 106–113 Sec 1247(d) 472
National Drug Operations Center
Feasibility study ..... PL 101–189 Sec 1213 1200
National security
Export controls ..... PL 104–106 Sec 1322(c) 992
National Security Assistance Strategy ... PL 106–280 Sec 501 453
Formulating and implementing ..... PL 107–228 Sec 1501 438
National security threats
Guidelines for detecting ..... 10 USC 113(k) 599
NATO
Analysis of enlargement costs ..... PL 105–85 Sec 1223(c) 951
Armaments cooperation with member countries. PL 98–525 Sec 1006 1305
Assignment of missions among member countries. PL 100–463 Sec 8125 1233
Burden sharing ..... PL 106–398 Sec 1221(b) 833
Defense Capabilities Initiative ..... PL 106–65 Sec 1039 864
Defense program for FY 1990 ..... PL 100–456 Sec 1005 1222
Deterrence requirements ..... PL 100–180 Sec 1001 1250
Enlargement ..... PL 104–201 Sec 1048 971
Enlargement costs to Department of Defense. PL 105–85 Sec 1223(d) 951
Force reductions implications ..... PL 101–189 Sec 902 1188
U.S. expenditures in support of ..... PL 98–94 Sec 1107 1319
Use of U.S. military installations .... PL 101–510 Sec 2503 1168
NATO alliance expansion
Military capabilities ..... PL 105–261 Sec 1222 911
NATO Prague Capabilities Commitment
Implementation of ..... PL 108–136 Sec 1231(b) 753
NATO Task Force
Development of ..... PL 108–136 Sec 1231(b) 753
NATO-U.S. relations
Roles and missions support costs ..... PL 103–337 Sec 1313 1016
NBC weapons
Transfers by foreign countries ..... PL 107–228 Sec 1308 421
New Iraqi Army
Training and equipment funding ..... PL 108–287 Sec 9006 734
Non-NATO
Cross-servicing agreements with the United States. 10 USC 2349a 648
North Atlantic Treaty ..... PL 103–160 Sec 1411(c) 1044
PL 102–484 Sec 1314(b) 1074
North Korea
Ballistic missile threat ..... PL 106–398 Sec 232 822
Nuclear Cities Initiative ..... PL 107–314 Sec 4302(c) 801
Project review procedures ..... PL 107–314 Sec 4304(d) 803
Russian Federation-U.S. agreement PL 107–314 Sec 4304(e) 804
U.S. agency contributions ..... PL 107–314 Sec 4302(b)(4) ... 801
Weapons of mass destruction facilities in Russia. PL 107–314 Sec 4302(b) 800

Reports to Congress—Continued
Nuclear materials protection program funds
Use outside former Soviet Union ..... PL 108–136 Sec 3124(c)(2) 757
Nuclear Materials Protection, Control, and Accounting Program. PL 107–314 Sec 4303 802
Access policy ..... PL 107–314 Sec 4303(c)(2) 803
Nuclear materials risk
Mitigating threats ..... PL 108–375 Sec 3132(d) 722
Nuclear materials security
International program to strengthen PL 107–314 Sec 3158 792
Nuclear test monitoring equipment
Furnished to foreign governments ... 10 USC 2565(c) 682
Nuclear test readiness ..... PL 104–201 Sec 3158 980
Nuclear test readiness postures ..... PL 107–314 Sec 4208 796
Nuclear weapons
Dismantlement of ..... PL 102–484 Sec 3151(d) 1109
PL 101–510 Sec 3151 1177
National security requirements ..... PL 102–190 Sec 3142 1142
Nonproliferation activities ..... PL 102–484 Sec 1503(a) 1091
PL 102–484 Sec 1505(e) 1095
Nuclear winter ..... PL 99–661 Sec 1371 1271
Operation Allied Force
Conduct of military operations ..... PL 106–65 Sec 1211 873
Costs to United States ..... PL 106–398 Sec 1221(a) 833
Operation Desert Storm
Costs offset by foreign country contributions. PL 102–25 Sec 401 36
Operation Enduring Freedom
Estimated FY 2006–2011 costs ..... PL 108–287 Sec 9012 736
Military operations conducted under PL 107–314 Sec 1043 774
Operation Enhanced Southern Watch .... PL 104–201 Sec 1041 969
Operation Iraqi Freedom
Conduct of ..... PL 108–136 Sec 1202 747
Estimated FY 2006–2011 costs ..... PL 108–287 Sec 9012 736
Post-major combat operations ..... PL 108–375 Sec 1042 700
Operation Provide Comfort ..... PL 104–201 Sec 1041 969
Overseas Contingency Operations Transfer Fund
Transfer of funds from ..... PL 108–287 Sec 8114 732
Overseas Military Facility Investment Recovery Account
Host nation agreements ..... PL 101–510 Sec 2921(g)(2) 1174
Overseas Private Investment Corporation
Investment Advisory Council ..... PL 106–200 Sec 123(c) 176
Overseas Workload Program ..... PL 100–180 Sec 1021 1254
Pacific
U.S. force structure in ..... PL 107–314 Sec 1211 782
Pacific Rim
U.S. military presence in ..... PL 102–190 Sec 1043(c) 1124
Pakistan
Logistical support reimbursement ... PL 108–11 Sec 1310 11
Palestine Authority
Commitments to Israel ..... PL 107–228 Sec 603 293
Palestine Liberation Organization
Commitments to Israel ..... PL 107–228 Sec 603 293
Responses to terrorism ..... PL 103–236 Sec 583(b)(6) 306
Peace Corps ..... PL 87–293 Sec 11 1567
PL 99–83 Title XI 1592
Employment related matters ..... PL 102–565 Sec 4 1590
Health care services evaluation ..... PL 102–565 Sec 3 1589
Peace Corps National Advisory Council PL 87–293 Sec 12(i) 1570.
Peacekeeping in Kosovo
Support from European nations ..... PL 106–398 Sec 1213 832
Persian Gulf
U.S. strategic posture in ..... PL 102–484 Sec 1331 1077

Reports to Congress—Continued
Persian Gulf conflict
Conduct of ..... PL 102–25 Sec 501 40
Persian Gulf crisis
Foreign country contributions ..... PL 102–25 Sec 402 38
Persian Gulf Regional Defense Fund
Transfer of funds ..... PL 102–25 Sec 105–106 35
Peru
Drug control ..... PL 105–277 Sec 822(b) 367
Peruvian attack on U.S. military personnel. PL 103–160 Sec 1434 1049
PL 103–139 Sec 8099 1061
Plan Colombia
Costs to support ..... PL 106–246 Sec 3204(e) 224
Plutonium from the Independent states of the former Soviet Union
Purchasing ..... PL 108–136 Sec 3123(b) 740
Poland
Agricultural assistance ..... PL 101–179 Sec 701 145
Confidence building measures ..... PL 101–179 Sec 702 145
Environmental assessment ..... PL 101–179 Sec 703 145
Post conflict Iraq
U.S. assistance strategy ..... PL 108–11 Sec 1506 19
President
Bosnia and Herzegovina ..... PL 105–85 Sec 1205 942
Bosnia-Herzegovina ..... PL 105–261 Sec 1203 906
Nonproliferation and threat reduction objectives. PL 107–228 Sec 1339 434
Programs and projects
International Atomic Energy Agency PL 107–228 Sec 1343 434
Property services and supplies
Accepted from foreign governments 10 USC 2608 683
Reducing child hunger
Multilateral support for ..... PL 107–171 Sec 3107(h) 1392
Republic of Korea
Military readiness ..... PL 103–337 Sec 1322 1020
Riverine counter-drug program
Review of ..... PL 106–398 Sec 1024 829
Russian American Observation Satellites program
Protecting U.S. technology ..... PL 106–398 Sec 216 822
Russian Federation
Debt discussion with other creditor states. PL 107–228 Sec 1318 430
Denuclearization ..... PL 102–484 Sec 1321(c) 1076
Russian Federation Debt for Nonproliferation Act of 2002
Implementation of ..... PL 107–228 Sec 1321 430
Russian Federation Nonproliferation Investment Agreement
Entering into ..... PL 107–228 Sec 1315 428
Russian fissile materials
Protection and control of ..... PL 107–314 Sec 4305 806
Russian nuclear weapons launch
Risk reduction ..... PL 108–375 Sec 1214 715
Sales of prohibited defense articles ..... 10 USC 2390 667
Satellite exports
Department of Defense national security control costs. PL 108–136 Sec 1212 751
Secretary of Defense ..... PL 108–375 Sec 1093 705
Bosnia and Herzegovina ..... PL 105–85 Sec 1204 942
Bosnia-Herzegovina ..... PL 105–261 Sec 1204 907
Buy American Act waivers ..... PL 102–190 Sec 833 1120
PL 101–189 Sec 823 1185
Contractors in Iraq ..... PL 108–375 Sec 1205(c) 710
Defense industrial base ..... PL 102–190 Sec 831 1119
Global strike capability plan ..... PL 108–136 Sec 1032(b) 744
Global war on terrorism ..... PL 108–375 Sec 1041 699

Reports to Congress—Continued
Secretary of Defense—Continued
Humanitarian assistance ..... 10 USC 2561(c) 679
Land mine alternatives ..... PL 105–261 Sec 248(d) 893
Military force structure ..... 10 USC 113 597
Military operations objectives ..... PL 105–261 Sec 1212 910
Military strategy report ..... PL 101–510 Sec 901 1148
Missing Indochina War personnel ... PL 103–337 Sec 1034 1009
Overseas environmental provisions PL 101–510 Sec 342 1146
POW/MIA ..... PL 103–337 Sec 1032 1008
POW/MIA in North Korea ..... PL 103–337 Sec 1035(b) 1010
U.S. Armed Forces operations ..... PL 105–261 Sec 1211 909
Secretary of the Treasury
World Bank AIDS Trust Fund ..... PL 106–264 Sec 131(a) 517
Security arrangements with foreign countries. PL 101–510 Sec 1456 1162
Somalia
Intelligence assessment ..... PL 103–337 Sec 1403 1027
South Asia
U.S. nuclear and missile nonproliferation objectives. PL 107–228 Sec 1601(c) 439
Soviet Union, former-U.S. relations
Demilitarization programs ..... PL 102–484 Sec 1431–1432 .. 1087
Soviet Union, former, independent states of
Assistance strategy ..... PL 102–511 Sec 103–104 77
Soviet Union
Emergency airlift assistance ..... PL 102–228 Sec 301(b)(2) 107
Strategic Concept of NATO
Impact on the United States ..... PL 106–65 Sec 1221 877
Strategic Defense Initiative ..... PL 100–180 Sec 231 1245
Development plans and costs ..... PL 100–180 Sec 232 1246
FY 1988 funding allocation ..... PL 100–180 Sec 234 1248
Strategic nuclear warheads
Dismantling of ..... PL 108–136 Sec 1033 745
Sub-Saharan Africa
Foreign aid ..... PL 105–385 Sec 301 188
Sugar imports
Cuban produced ..... PL 99–198 Sec 902(c)(2) 1458
Super computers sales to certain countries. PL 105–85 Sec 3157 961
Support for East European Democracy (SEED). PL 101–179 Sec 704 146
Taiwan
Military aid ..... PL 107–228 Sec 1263 417
Military officer exchanges ..... PL 107–314 Sec 1210 782
Terrorism
Department of Defense programs to combat. PL 106–65 Sec 932 853
Military operations to combat ..... PL 108–375 Sec 1208 713
U.S. Armed Forces abroad
Review of ..... PL 104–201 Sec 1084(d) 978
U.S. counternarcotics strategy
Colombia and neighboring countries PL 106–246 Sec 3202 219
U.S. defense expenditures in ..... PL 101–189 Sec 913 1193
U.S. military
Mobility requirements ..... PL 101–510 Sec 909(b) 1149
Readiness ..... PL 106–65 Sec 1035 861
U.S. military bases in the Philippines .... PL 100–456 Sec 1308(b) 1230
U.S. military engagement in Europe
Study on costs and benefits ..... PL 106–398 Sec 1223 834
U.S. military stationed abroad ..... PL 102–484 Sec 1304 1072
Costs assessment ..... 10 USC 113(j) 599
Europe ..... PL 101–189 Sec 912(e) 1192
Review of ..... PL 105–85 Sec 1221(d) 949
U.S. military stationed in Andean countries. PL 101–623 Sec 8 386

Reports to Congress—Continued
U.S. naval vessels exported for scrapping. PL 105–85 Sec 1026 928
U.S. nonproliferation activities ..... PL 107–314 Sec 1205 778
U.S. trade and investment policies in sub-Saharan Africa. PL 106–200 Sec 106 173
United Nations
International peacekeeping activities. PL 102–484 Sec 1341 1078
Reforming peace operations ..... PL 103–337 Sec 1401 1025
United States Customs Service
Assistance by U.S. military ..... PL 106–65 Sec 1027 860
United States Microfinance Loan Facility. PL 106–309 Sec 107 500
United States-China bilateral trade relations
National security impact ..... PL 106–398 Sec 1238(c)(1) 841
United States-Cuba Council ..... PL 104–114 Sec 203(c) 250
United States-People's Republic of China Joint Defense Conversion Committee. PL 104–106 Sec 1343 998
Uranium from the Independent states of the former Soviet Union
Purchasing ..... PL 108–136 Sec 3123(b) 740
Uruguay Round Agreement on Agriculture
Implementation of commitments ..... PL 95–501 Sec 106 1491
Waiver of aid prohibition to terrorist countries. 10 USC 2249a(b)(2) 637
Weapons proliferation and export control capabilities
Training programs ..... PL 107–228 Sec 1302 418
Weapons technology transfer ..... PL 102–190 Sec 1097 1136
Western Hemisphere
Regional security programs ..... PL 103–337 Sec 1315(b) 1018
World Trade Organization obligations
Compliance by China ..... PL 106–286 Sec 421 339
Research and Training for Eastern Europe and the Independent States of the Former Soviet Union Act of 1983. PL 98–164 Sec 801 154
Rice surplus
Overseas donations ..... PL 81–439 Sec 416(b) 1427
Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005. PL 108–375 Sec 1 693
Russia-U.S. relations
Fissile materials
Improving control and accountability of. PL 107–314 Sec 4305 806
Nuclear weapons
Reductions ..... PL 102–484 Sec 1321 1074
Space cooperation
Annual report to Congress ..... PL 106–280 Sec 708 462
Vancouver Declaration ..... PL 103–199 Sec 102 68
Weapons of mass destruction facilities
Closing of ..... PL 107–314 Sec 4302(b) 800
Yamantau Mountain project
Sense of Congress ..... PL 105–85 Sec 1227 955
Russian American Observation Satellites program
Protecting U.S. technology
Report to Congress ..... PL 106–398 Sec 216 822
Russian Democracy Act of 2002 ..... PL 107–246 62
Purposes of ..... PL 107–246 Sec 2(b) 63
Russian Federation transition
Findings of Congress ..... PL 107–246 Sec 2(a) 62
Russian Far East
Business opportunities
Technical assistance ..... PL 102–511 Sec 307 84

Russian Federation Debt for Nonproliferation Act of 2002.	PL 107–228	Sec 1311	424
Implementation of			
Report to Congress	PL 107–228	Sec 1321	430
Russian Federation Nonproliferation Investment Agreement.			
Authority of President	PL 107–228	Sec 1314	426
	PL 107–228	Sec 1315	428
Report to Congress	PL 107–228	Sec 1315	428
Russian Federation-U.S. relations			
Assistance programs	PL 107–246	Sec 5	65
Ballistic missile defense			
NATO cooperation encouraged	PL 108–136	Sec 3623	760
Ballistic missile launches			
Exchanging data	PL 106–398	Sec 1232	835
Center for Independent Press and the Rule of Law.	PL 107–228	Sec 1316	429
Commercial space launch cooperation			
Sense of Congress	PL 106–65	Sec 1611	883
Cost-sharing agreements			
Report to Congress	PL 107–314	Sec 1203(a)(3)	778
Debt-for-nonproliferation exchange	PL 107–228	Sec 1312(a)(9)	425
Denuclearization			
Report to Congress	PL 102–484	Sec 1321(c)	1076
Joint Data Exchange Center			
Ballistic missile launches	PL 106–398	Sec 1231(a)	834
Cost-sharing agreements	PL 107–314	Sec 1203(a)(1)	778
Establishment of	PL 106–398	Sec 1231(a)	834
Liability limitation	PL 107–314	Sec 1203(a)(2)	778
Limitation on funding	PL 107–314	Sec 1203	778
Report to Congress	PL 106–398	Sec 1231(c)	835
National security			
Findings of Congress	PL 107–228	Sec 1312	424
Nuclear Cities Initiative	PL 107–314	Sec 4304	803
Nuclear weapons launch			
Risk reduction	PL 108–375	Sec 1214	715
Plutonium production elimination			
Program transfer	PL 107–314	Sec 3151	786
Promoting democracy	PL 107–246	Sec 3	64
Regional Initiatives program support	PL 107–246	Sec 5	65
Russian tactical nuclear weapons			
Inventory of	PL 108–136	Sec 3621	759
Terrorism			
State sponsors of	PL 107–228	Sec 1317	429
Threat Reduction Working Group			
Established	PL 108–136	Sec 3622	759
Weapons stockpiles			
Control and destruction of	PL 107–228	Sec 1312	424
Rwanda-U.S. relations			
International tribunal			
Judicial assistance	PL 104–106	Sec 1342	997
Refugee relief			
Defense Department supplemental appropriations.	PL 103–337	Sec 1002(b)	1005

S

Sanctions			
Against Belarus			
Sense of Congress	PL 108–347	Sec 5	59
Against certain persons			
Arms sales to Iraq or Iran	PL 102–484	Sec 1604	27
Against Cuba			
Strengthening	PL 104–114	Sec 101	234
Against Ethiopia	PL 100–456	Sec 1310	1231
Against foreign countries			
Arms sales to Iraq or Iran	PL 102–484	Sec 1605	28

Sanctions—Continued
Against India
Waiver of ..... PL 106–79 Sec 9001 348
Against Iraq ..... PL 101–513 Sec 586C 47
PL 101–513 Sec 586G 52
PL 101–510 Sec 1458 1164
Humanitarian assistance exemptions. PL 101–513 Sec 586C(b) 48
Report to Congress ..... PL 101–513 Sec 586J(c) 55
Termination of ..... PL 101–513 Sec 586C(c) 48
Violations of ..... PL 101–513 Sec 586E 49
Waiver of ..... PL 101–513 Sec 586H 53
Against Iraq or Iran
Waiver of ..... PL 102–484 Sec 1606 29
Against Pakistan
Waiver of ..... PL 106–79 Sec 9001 348
Against Serbia and Montenegro ..... PL 103–160 Sec 1511 1053
Agriculture Export Relief Act of 1998
Exemptions ..... PL 105–194 351
Cuba
Countries assisting ..... PL 102–484 Sec 1704 1102
Pakistan
Waiver authority ..... PL 107–57 Sec 2 346
Palestine Authority
Commitments to Israel ..... PL 107–228 Sec 604 294
Palestine Liberation Organization
Commitments to Israel ..... PL 107–228 Sec 604 294
Sapoa Agreement
Verification Commission
Support funding ..... PL 100–276 Sec 9 289
Satellite exports
National security control costs
Report to Congress ..... PL 108–136 Sec 1212 751
Saudi Arabia-U.S. relations
Aircraft
Transfer to ..... PL 100–456 Sec 1306 1229
Science and technology
(see also Technical assistance)
China-U.S. agreement on
Monitoring implementation of ..... PL 107–314 Sec 1207 780
Scientific exchange
(see Educational and cultural exchange)
Sea law
Military training operations ..... PL 93–365 Sec 704 1327
SEASPARROW Cooperative Program
Continued participation in ..... PL 98–525 Sec 1004 1305
Secondary schools
(see Educational and cultural exchange)
Security assistance, U.S.
(see Military aid, U.S.)
Security Assistance Act of 1999 ..... PL 106–113 Sec 1201 465
Security Assistance Act of 2000 ..... PL 106–280 448
Security Assistance Act of 2002 ..... PL 107–228 412
Security supporting assistance
(see Economic Support Fund)
Serbia-U.S. relations
Foreign aid prohibition ..... PL 103–160 Sec 1511 1053
Silk Road Initiative
Appropriations authorization ..... PL 108–375 Sec 3133 723
Program authorization ..... PL 108–375 Sec 3133 723
Sinai Field Mission
Facilities transfer to Egypt ..... PL 96–35 Sec 6 320
Slovakia-U.S. relations
NATO Participation Act of 1994
Assistance eligibility ..... PL 107–187 Sec 4 446
Small Business Act ..... 67 Stat 232 160

Small Business Administration
Central European small business
Appropriations authorization ..... 67 Stat 232 161
Social development
(see Human rights)
(see United Nations)
Somalia-U.S. relations
Findings of Congress ..... PL 102–274 Sec 2 202
Foreign aid
Prohibitions on ..... PL 102–274 Sec 7 209
Policy on
Sense of Congress ..... PL 102–274 Sec 3(b) 203
U.S. Armed Forces in ..... PL 103–160 Sec 1512 1055
U.S. policy toward ..... PL 103–160 Sec 1512 1055
South Africa-U.S. relations
Apartheid sanction laws
Repeal of ..... PL 103–149 Sec 4 197
Cooperative agreements ..... PL 103–149 Sec 8 200
Democratic process
U.S. assistance in ..... PL 103–149 Sec 5 198
U.S. policy toward ..... PL 103–149 Sec 3 197
Democratic transition
International financial institutions support. PL 103–149 Sec 9 200
Educational and cultural exchange ..... PL 103–149 Sec 7 200
Findings of Congress ..... PL 103–149 Sec 2 196
South Africa-U.S. trade relations
Facilitation of ..... PL 103–149 Sec 6 199
South African Democratic Transition Support Act of 1993. PL 103–149 196
South Asia-U.S. relations
Nuclear nonproliferation
South Asia ..... PL 107–228 Sec 1601 438
South Vietnam-U.S. relations
(see Indochina War)
Southeast Asia
(see individual countries)
(see Indochina War)
Soviet Union, former-U.S. relations
Amending Cold War provisions ..... PL 103–199 Sec 101 68
Applicable Cold War provisions ..... PL 103–199 Sec 103 69
Demilitarization programs
Administration of ..... PL 102–484 Sec 1421 1087
Appropriations authorization ..... PL 102–484 Sec 1421(a) 1087
Presidential authority ..... PL 102–484 Sec 1412 1085
Report to Congress ..... PL 102–484 Sec 1431–1432 .. 1087
Denuclearization
Report to Congress ..... PL 102–484 Sec 1321(c) 1076
U.S. policy ..... PL 102–484 Sec 1321(b) 1075
Direct communications link ..... PL 99–85 1331
Export Administration Act policies ..... PL 103–199 Sec 201 70
Findings of Congress ..... PL 103–199 Sec 102 68
KAL Flight 7 ..... PL 103–199 Sec 201 70
Murder of Lt. Colonel Arthur D. Nicholson, Jr.. PL 99–661 Sec 1368 1270
Peace Corps programs in ..... PL 102–565 Sec 5 1591
Threat reduction
Appropriations reductions ..... PL 104–106 Sec 1008 988
Appropriations rescissions ..... PL 108–287 Sec 8049 730
Soviet Union, former, independent states of-U.S. relations
(see also Commonwealth of Independent States-U.S. relations)
(see individual countries)
Advisory Committee for Studies of ..... PL 98–164 Sec 804 155
Agriculture advisory council ..... PL 102–511 Sec 302 82
American Business Centers created ..... PL 102–511 Sec 301 80
Arms control ..... PL 102–511 Sec 501 87

Soviet Union, former, independent states of-
U.S. relations—Continued
Arms control—Continued
Activities ..... PL 102–511 Sec 503 88
Aid eligibility ..... PL 102–511 Sec 502 87
Assistance eligibility ..... PL 102–511 Sec 202 79
Business advisory council ..... PL 102–511 Sec 302 82
Coordinating assistance ..... PL 102–511 Sec 102 76
Currency stabilization fund ..... PL 102–511 Sec 1004(b) 104
Defined ..... PL 102–511 Sec 3 74
Demilitarization
Findings of Congress ..... PL 102–484 Sec 1411 1085
Democracy support ..... PL 102–511 Sec 201 79
Diplomatic and consular service ..... PL 102–511 Sec 802 100
Economic development ..... PL 102–511 Sec 201 79
Exchange and training programs ..... PL 102–511 Sec 807 100
Findings of Congress ..... PL 102–511 Sec 101 74
Graduate students scholarships ..... PL 102–138 Sec 227 112
Investment guarantees ..... PL 102–511 Sec 1009 105
Johnson Act applicability ..... PL 102–511 Sec 902 102
Knowledge of
Findings ..... PL 98–164 Sec 802 154
Macroeconomic stabilization in ..... PL 102–511 Sec 1004 104
Nonproliferation activities ..... PL 102–511 Sec 501 87
Nonproliferation assistance ..... PL 107–228 Sec 1334 432
Nonproliferation coordination ..... PL 107–228 Sec 1332 431
Nonproliferation/disarmament fund ..... PL 102–511 Sec 504 89
Nuclear materials disposal ..... PL 102–511 Sec 510 95
Office of Space Commerce ..... PL 102–511 Sec 602 98
Private organizations food aid ..... PL 102–511 Sec 703 99
Research and development ..... PL 102–511 Sec 511 95
Science and technology centers ..... PL 106–280 Sec 303 452
Space cooperation ..... PL 102–511 Sec 601 97
Threat reduction
Appropriations ..... PL 108–287 Title II 736
Uranium and plutonium purchases ..... PL 108–136 Sec 3123 740
Soviet Union-U.S. relations
Emergency airlift assistance
Appropriations transfers ..... PL 102–228 Sec 301 106
"Emergency requirements" funds ..... PL 102–228 Sec 301(b)(4) 107
Report to Congress ..... PL 102–228 Sec 301(b)(2) 107
Graduate student scholarships
Appropriations authorization ..... PL 102–138 Sec 227(d) 113
Grain exports prohibited
Commodity Credit Corporation purchases. PL 96–494 Sec 206 1518
Humanitarian assistance
Emergency airlift ..... PL 102–228 Sec 301 106
Report to Congress ..... PL 102–228 Sec 302 108
Plutonium production
Cessation of ..... PL 101–510 Sec 3151 1177
Soviet-American Interparliamentary Exchanges
Appropriations authorization ..... PL 102–138 Sec 221(9) 110
Space Commerce, Office of
Former Soviet Union
Trade missions ..... PL 102–511 Sec 602 98
Space launch capacity
U.S. commercial competitiveness
Sense of Congress ..... PL 106–65 Sec 1612 884
Special Defense Acquisition Fund
Appropriations authorization
Limitations on ..... 10 USC 114(c) 600
Special International Security Assistance Act of 1979. PL 96–35 318
State, Department of
Chad
Humanitarian aid ..... PL 108–287 Ch 2 737

State, Department of—Continued
Dafur region
Humanitarian aid ..... PL 108–287 Ch 2 737
Diplomatic and Consular programs
Additional appropriations, 2005 ..... PL 108–287 Title X 728
Embassy security and maintenance
Additional appropriations, 2005 ..... PL 108–287 Title X 728
Facilities charges assessment
Limitation on ..... PL 108–136 Sec 1007 742
Foreign aid
Functions delegated to ..... 45 FR 11655 565
Foreign aid program
Administration of ..... EO 12163 Sec 1–1 556
Migration and refugee assistance
Appropriations, 2005 ..... PL 108–287 Ch 2 737
State, Secretary of
Arms sales
Duties ..... EO 11958 579
Authority
Additional delegations and limitations. EO 12163 Sec 1–601 560
Chemical Weapons Convention
Authority ..... EO 13346 Sec 2(b)(a) 595
Colombia
Certification to Congress ..... PL 106–246 Sec 3207 225
Foreign affairs functions ..... EO 13345 Sec 2 593
Foreign aid
Functions reserved for ..... 45 FR 11655 Sec 4 574
FREEDOM Support Act
Additional delegated functions ..... EO 12884 Sec 3 164
Delegated functions ..... EO 12884 Sec 1 163
Functions delegated to ..... EO 13346 Sec 1(a) 595
International Arid Land Consortium ..... PL 95–113 Sec 1458(a)(8) 1534
Jackson-Vanik waivers
Authority ..... EO 13346 Sec 1(a)(i) 595
National Security Assistance Strategy
Report to Congress ..... PL 106–280 Sec 501 453
Strategic Arms Reduction Talks
Russian Federation
Nuclear weapons ..... PL 102–484 Sec 1321 1074
Strategic Defense Initiative
Anti-tactical ballistic missile system ..... PL 99–661 Sec 212 1264
Appropriations authorization, FY 1986 .. PL 99–145 Sec 221 1275
Appropriations authorization, FY 1988 .. PL 100–180 Sec 221 1240
Consultation with NATO allies ..... PL 99–145 Sec 224 1276
Contracts with foreign entities
Restrictions on ..... PL 100–180 Sec 222 1240
Department of Energy
Transfer of funds ..... PL 101–510 Sec 3124 1175
Development plans and costs
Report to Congress ..... PL 100–180 Sec 232 1246
Effect on compliance with ABM Treaty .. PL 99–661 Sec 216 1265
Establishing a federally funded R&D center
Limitation on ..... PL 99–661 Sec 213 1264
FY 1987 funding level ..... PL 99–661 Sec 211 1263
FY 1988 funding allocation
Report to Congress ..... PL 100–180 Sec 234 1248
NATO cooperation and consultation
Congressional policy ..... PL 99–145 Sec 224 1276
Potential responses
Report to Congress ..... PL 99–145 Sec 223(a) 1276
Projected cost
Report to Congress ..... PL 99–145 Sec 223(b) 1276
Report to Congress ..... PL 100–180 Sec 231 1245
Support by federally funded research and development center. PL 100–180 Sec 227 1242

Strategic Defense Initiative—Continued
Technology transfer to Soviet Union
Restrictions on ..... PL 100–180 Sec 223 1241
Strom Thurmond National Defense Authorization Act for Fiscal Year 1999. PL 105–261 886
PL 105–261 Note 887
Sub-Saharan African countries
Farmer-to-farmer program
Establishing ..... PL 83–480 Sec 501(b) 1375
Sudan-U.S. relations
Dafur region
Humanitarian aid ..... PL 108–287 Ch 2 726
Export prohibitions
Exceptions to ..... PL 106–570 Sec 501 493
Findings of Congress ..... PL 102–274 Sec 2 202
Foreign aid ..... PL 106–570 Sec 501 493
Prohibitions on ..... PL 102–274 Sec 7 209
Policy on
Sense of Congress ..... PL 102–274 Sec 3(c) 204
Support for East European Democracy (SEED)
Excess defense articles
Transportation funds ..... PL 104–164 Sec 105 536
Report to Congress ..... PL 101–179 Sec 704 146
Suspension of assistance ..... PL 101–179 Sec 801 147
Support for East European Democracy (SEED) Act of 1989. PL 101–179 120
Support for East European Democracy (SEED) Program
Actions
International Monetary Fund ..... PL 101–179 Sec 2(c) 123
World bank ..... PL 101–179 Sec 2(c) 123
Debt for equity swaps ..... PL 101–179 Sec 104 128
Delegation of authority ..... EO 12703 162
Objectives ..... PL 101–179 Sec 2 121
Support for Overseas Cooperative Development Act. PL 106–309 Sec 401 506
Findings of Congress and declaration of policy. PL 106–309 Sec 401(b)–(c) 506
Supporting assistance
(see Economic Support Fund)
Swine influenza
International cooperation
Findings and sense of Congress ..... PL 94–302 Title III 540

T

Taiwan-U.S. relations
Arms sales
Treated as a major Non-NATO ally PL 107–228 Sec 1206 414
Military aid
Report to Congress ..... PL 107–228 Sec 1263 417
Military officer exchanges
Report to Congress ..... PL 107–314 Sec 1210 782
Visas for high-level officials
Sense of Congress ..... PL 103–337 Sec 1073 1010
Taiwan-U.S. trade relations
World Trade Organization
Accession to ..... PL 106–286 Sec 601 343
Task Force on Nuclear Materials
Establishment of ..... PL 108–375 Sec 3132 720
Technical assistance
(see also Peace Corps)
Colombo Plan ..... PL 86–108 Sec 502 483
Technology
Defense critical
Monitoring and assessment of ..... 10 USC 2517 671

Technology—Continued
International export of
Control of ..... PL 101–513 Sec 586J 54
Missile production
Control of ..... PL 101–510 Sec 1701 1166
Research and development
Cooperation with Japan ..... PL 102–190 Sec 255 1117
PL 101–510 Sec 1454 1160

Technology transfer
Export restrictions ..... PL 101–513 Sec 586I 54
Missile technology
Control of ..... PL 101–189 Sec 1639 1207
Missile Technology Control Regime ..... PL 101–510 Sec 1701 1166
Strategic Defense Initiative
Soviet Union restrictions ..... PL 100–180 Sec 223 1241
Strategically sensitive
Advice on policy issues ..... PL 106–65 Sec 912 851
Subject to offset arrangements
U.S. policy on ..... 10 USC 2532 673
PL 100–456 Sec 825 1219

Technology, foreign
Monitoring and assessment of ..... 10 USC 2517 671
Overseas program ..... 10 USC 2518 672

Terrorism
Al Qaeda and associated groups in Latin America
Report to Congress ..... PL 108–375 Sec 1047 702
Colombia
Counter-terrorism campaign ..... PL 108–136 Sec 1023 743
Combating
Rewards for assistance in ..... PL 107–314 Sec 1065 775
Rewards for information or assistance. 10 USC 127b 604
Counter and Anti
Oversight of ..... PL 105–85 Sec 1051 935
Counterterrorism activities
Department of Defense appropriations authorization. PL 104–201 Sec 306 966
Countries aiding
Department of Defense contract prohibition. 10 USC 2327(b) 639
Countries supporting
Department of Defense aid prohibition. 10 USC 2249a(a) 637
Waiver of aid prohibition ..... 10 USC 2249a(b) 637
Department of Defense
Assisting civil authorities ..... PL 106–65 Sec 1023 858
Budget justification display ..... 10 USC 229 610
Department of Defense programs to combat
Report to Congress ..... PL 106–65 Sec 932 853
Drawdowns
Notification deadline modifications .. PL 107–57 Sec 4 346
Excess defense articles transfers
Notification deadline modifications .. PL 107–57 Sec 4 346
Federal Emergency Management Agency
Response to ..... PL 103–160 Sec 1704 1059
Global war on
Report to Congress ..... PL 108–375 Sec 1041 699
Intelligence on
Reporting by defense personnel ..... PL 99–661 Sec 1353 1269
Iraq
Support for acts of ..... PL 101–513 Sec 586F(c) 51
Military operations to combat
Appropriations authorization ..... PL 108–375 Sec 1208 713
Report to Congress ..... PL 108–375 Sec 1208 713

Terrorism—Continued
Not supporting
Arms sales conditions ..... PL 106–113 Sec 1262(b)(4) ... 476
Nuclear Security Administration
Cooperative program with Russian Federation. PL 107–314 Sec 3155 789
Protecting U.S. civil aviation overseas ... PL 101–189 Sec 1631 1205
Protecting U.S. military personnel ..... PL 99–145 Sec 1452 1292
Russian Federation
State sponsors of ..... PL 107–228 Sec 1317 429
Special Operations Command
Appropriations authorization, FY 1999. PL 105–261 Sec 1023(d) 903
War on
Appropriation authorization ..... PL 107–314 Sec 1501 783
Mobilization and personnel ..... PL 107–314 Sec 1502 783
Operation Noble Eagle and Operation Enduring Freedom. PL 107–314 Sec 1503–1506 .. 783
Terrorism, anti
Foreign aid
Research and development expenses PL 104–164 Sec 122 537
Terrorism, Director of the Office for Combating
Functions delegated to ..... 45 FR 11655 Sec 1(i) 570
Threshold Test Ban Treaty
Verification measures
Agreement on ..... PL 107–314 Sec 4207 795
Torrejon Air Base
Relocating functions
Limitation on expenditures ..... PL 101–510 Sec 2802 1170
PL 101–189 Sec 921 1197
Torture
Foreign service officer training
Report to Congress ..... PL 106–87 Sec 5 531
Victims of
Appropriations authorization, FY 2004 and 2005. PL 108–179 529
Torture Victims Relief Act of 1998 ..... PL 105–320 532
Domestic treatment centers ..... PL 105–320 Sec 5 532
Findings of Congress ..... PL 105–320 Sec 2 532
Foreign service officers
Specialized training ..... PL 105–320 Sec 7 534
Multilateral assistance ..... PL 105–320 Sec 6 534
Training for Foreign Service Officers
Report to Congress ..... PL 106–87 Sec 5 531
Torture Victims Relief Reauthorization Act of 1999. PL 106–87 530
Domestic treatment centers ..... PL 106–87 Sec 3 530
Foreign treatment centers ..... PL 106–87 Sec 2 530
Multilateral assistance ..... PL 106–87 Sec 4 530
Torture Victims Relief Reauthorization Act of 2003. PL 108–179 529
Toshiba Corporation
Procurement of goods or services
Prohibition ..... PL 100–456 Sec 313 1218
Trade
(see also Imports)
Agreements with China
Promoting compliance with ..... PL 106–286 Sec 412 338
Agricultural exports
Strategy development ..... PL 95–501 Sec 103 1489
Agricultural Trade and Export Policy, National Commission on. PL 97–98 Sec 1219 1539
Arms
(see Arms sales)
Commodity Credit Corporation
Unfair practices ..... PL 95–501 Sec 301 1502

Trade—Continued
Latin America
Free trade zone ..... PL 102–532 Sec 5 268
South Africa
Expansion of ..... PL 103–149 Sec 6 199
Sub-Saharan Africa
U.S. policy on ..... PL 106–200 Sec 102 169
U.S. policy
Sense of Congress ..... PL 99–198 Sec 1121 1452
Trade and Development Agency
Foreign aid program
Administration of ..... EO 12163 Sec 1–505 560
Trade and Development Program
(see Trade and Development Agency)
Trade Promotion Coordinating Committee
Energy sector companies, U.S.
Assistance to ..... PL 102–511 Sec 304 83
Transportation, Department of
Reserve fleet vessels
Conveyance of ..... PL 105–261 Sec 3603 921
Travel abroad
Availability of local currencies ..... PL 83–665 Sec 502 485
Congressional members and staffs ..... PL 83–665 Sec 502 485
Treasury, Department of
Enterprise for the Americas Facility
Establishing ..... PL 83–480 Sec 601 270
Persian Gulf Regional Defense Fund
Establishment of ..... PL 102–25 Sec 102 34
Reimbursed by Federal agencies using foreign currencies. PL 87–125 Sec 508 542
31 USC 5303 543
Treasury, Secretary of
Foreign affairs functions ..... EO 13345 Sec 1 592
Treaty on the Non-Proliferation of Nuclear Weapons
Russia-U.S. relations ..... PL 102–484 Sec 1321 1074
Tropical Forest Conservation Act
Implementation of ..... EO 13345 1470
Tropical Forest Conservation Act of 1988
Implementation of ..... EO 12757 1468
Tuberculosis
Developing countries
Findings of Congress ..... PL 106–264 Sec 202 518
U.S. policy ..... PL 106–264 Sec 202 518
Turkey-U.S. relations
Air defense of U.S. military bases ..... PL 98–525 Sec 105 1294
Cyprus conflict ..... PL 94–104 Sec 2 479
Drug control
Imports of narcotics raw material .... PL 101–647 Sec 2501 389
Economic Support Fund
Foreign aid restrictions ..... PL 108–11 Ch 5 14
PL 108–11 Ch 5 14
Grants or loan guarantees ..... PL 108–11 Ch 5 14
Supplemental appropriations, 2003 PL 108–11 Ch 5 14
Military aid
Refugee relief ..... PL 94–104 Sec 2 479
Suspension of ..... PL 94–104 Sec 2 479
Operation Iraqi Freedom
Foreign aid conditions ..... PL 108–11 Ch 5 14
Opium poppy discussion ..... PL 94–104 Sec 2 479

U

U.S. Trade Representative
Imports
Prohibitions on ..... PL 101–624 Sec 1308 1412
U.S.-China Relations Act of 2000 ..... PL 106–286 Sec 201 327

Ukraine-U.S. relations
Currency stabilization
Study on ..... PL 102–511 Sec 1004(c) 104
Undersea rescue and recovery
Sense of Congress ..... PL 106–398 Sec 1237 838
Union of Soviet Socialist Republics
(see Soviet Union, former-U.S. relations)
United Arab Republic
(see Egypt-U.S. relations)
United Kingdom-U.S. relations
Arms sales
Policy of Congress ..... PL 108–375 Sec 1225 716
United Nations
Assignment of U.S. forces
Limitation of ..... PL 105–261 Sec 1231 913
Emergency Force
U.S. contributions to ..... PL 93–199 Sec 6 482
General Assembly resolution
International corruption ..... PL 106–309 Sec 202 503
Middle East conflict ..... PL 93–199 Sec 6 482
Oil-for-Food Program
Access to Iraqi documents ..... PL 108–375 Sec 1207 712
Peace operations security relations ..... PL 103–337 Sec 1401 1025
Peacekeeping activities
Prohibition on using Department of Defense funds. 10 USC 405 625
Report to Congress ..... PL 103–160 Sec 1502 1050
PL 102–484 Sec 1341 1078
Sanctions against Iraq
Compliance with ..... PL 101–513 Sec 586D 49
PL 101–510 Sec 1458 1164
Security Council Resolution 687
Violation by Iraq ..... PL 102–190 Sec 1095 1135
Security Council Resolution 688
Violation by Iraq ..... PL 102–190 Sec 1096 1136
Weapons inspections in Iraq
U.S. support for ..... PL 107–314 Sec 1204 778
United Nations Voluntary Fund for Victims of Torture
Appropriations authorization ..... PL 108–179 529
United States and Foreign Commercial Service
Expanding activities in sub-Saharan Africa. PL 106–200 Sec 125 177
United States Customs Service
U.S. military assistance
Plan preparation ..... PL 106–65 Sec 1027 860
United States Information Agency
East Europe Training Projects
Appropriations authorization ..... PL 102–138 Sec 221(5) 110
Educational exchange program
Enhancement of ..... PL 102–138 Sec 226 111
Emerging democracies
Programs for students ..... PL 102–138 Sec 210(a) 109
Enhanced educational exchange program
Appropriations authorization ..... PL 102–138 Sec 226(d) 111
United States Microfinance Loan Facility
Report to Congress ..... PL 106–309 Sec 107 500
United States Munitions List
Export applications
Electronic system for filing and review. PL 107–228 Sec 1403 436
United States National Authority
Non-governmental U.S. laboratory
Securing OPCW designation ..... PL 107–228 Sec 1605(b) 441
United States Trade Representative
Functions delegated to ..... EO 13346 Sec 1(b) 595

United States-China Economic and Security Review Commission
Appropriations authorization ..... PL 106–398 Sec 1238(f) 844
Establishment of ..... PL 106–398 Sec 1238(b) 839
Name change ..... PL 108–7 Division P 324
Report to Congress ..... PL 106–398 Sec 1238(c)(1) 841
Responsibilities ..... PL 108–7 Division P 324
PL 106–398 Sec 1238(b)(3) ... 840
United States-Cuba Council
Designation of ..... PL 104–114 Sec 203(b) 250
United States-Israel Endowment for Defense Industrial Cooperation
Report to Congress ..... PL 102–484 Sec 205 1064
United States-Japan Semiconductor Trade Agreement
Sense of Congress ..... PL 104–201 Sec 1081(b) 975
United States-Mexico Foundation for Science PL 95–113 Sec 1459 1535
United States-People's Republic of China Joint Defense Conversion Committee
Report to Congress ..... PL 104–106 Sec 1343 998
United States-Sub-Saharan Africa Trade and Economic Cooperation Forum
Establishment of ..... PL 106–200 Sec 105 171
Universal Military Training and Service Act
Applicability to Peace Corps ..... PL 87–293 Sec 23 1577
Uranium
Independent states of the former Soviet Union
Study and report on purchasing ..... PL 108–136 Sec 3123 740
Uranium and plutonium
Secure stockpiles of
Sense of Congress ..... PL 107–314 Sec 3162 793
Urgent Assistance for Democracy in Panama Act of 1990. PL 101–243 119
PL 101–243 280
USSR
(see Soviet Union, former-U.S. relations)

V

Vancouver Declaration
Findings of Congress ..... PL 103–199 Sec 102 68
Victory in the Cold War, Commission on
Established ..... PL 106–65 Sec 1053(e) 866
Vietnam
(see Indochina War)
(see Vietnam-U.S. relations)
Vietnam War
(see Indochina War)
Vietnam-U.S. relations
Cambodian occupation
Sense of Congress ..... PL 100–180 Sec 1404 1261
Indochina War
Missing personnel ..... PL 103–337 Sec 1034 1009
Visas
Taiwanese officials
Sense of Congress ..... PL 103–337 Sec 1073 1010
Volunteer service programs, international
Encouragement of ..... PL 87–293 Title III 1579

Volunteer service programs
(see Peace Corps)

W

War
End strength limitation
Suspension of ..... 10 USC 123a 600
Warsaw Initiative Funds
Availability for new NATO members ..... PL 108–375 Sec 1224 716
Weapons
Ballistic missiles
Defense activities funding ..... PL 105–261 Sec 3132 918
Biological and chemical
Secretary of Defense ..... PL 103–160 Sec 1701 1056
Nuclear, biological, and chemical
Sense of Congress ..... PL 102–484 Sec 1502 1090
Transfers by foreign countries ..... PL 107–228 Sec 1308 421
Proliferation controls
Appropriations authorization, 2003 PL 107–228 Sec 1302 418
Report to Congress ..... PL 107–228 Sec 1309 423
Training programs ..... PL 107–228 Sec 1302 418
Surplus stockpiles
Destruction of ..... PL 107–228 Sec 1241 417
U.S. nonproliferation and threat reduction
Report to Congress ..... PL 107–228 Sec 1339 434
U.S. nonproliferation efforts
Sense of Congress ..... PL 107–228 Sec 1332 431
Weapons of mass destruction
Iraq
Report to Congress ..... PL 108–136 Sec 1204 750
National emergency
Secretary of Defense ..... 10 USC 382 617
Proliferation controls
Funding availability ..... PL 105–261 Sec 1023(d) 903
Spread of
Sense of Congress ..... PL 108–375 Sec 1213 715
Weapons of Mass Destruction Control Act of 1992. PL 102–484 Sec 1501 1090
Western Hemisphere Drug Elimination Act .. PL 105–277 Sec 801 360
Western Hemisphere Institute for Security Cooperation. 10 USC 2166 632
Western Hemisphere-U.S. relations
Regional security
Department of Defense programs .... PL 103–337 Sec 1315 1017
Wheat
Emergency food aid
Reserve established ..... PL 96–494 Title III 1526
Wheat surplus
Overseas donations ..... PL 81–439 Sec 416(b) 1427
Women
Reconstruction activities in Iraq
Sense of Congress ..... PL 108–136 Sec 1205 750
World Bank AIDS Trust Fund
Administration of ..... PL 106–264 Sec 121 514
Advisory Board of ..... PL 106–264 Sec 124 516
Annual reports to Congress ..... PL 106–264 Sec 131 517
Appropriations authorization, FY 2001–2002. PL 106–264 Sec 141 518
Establishment of ..... PL 106–264 Sec 121 514
Grant authorities ..... PL 106–264 Sec 122 515
World Trade Organization
China
Review of commitments ..... PL 106–286 Sec 401 337
China commitments enforcement
Appropriations authorization ..... PL 106–286 Sec 413(a) 338

World Trade Organization—Continued
Taiwan
Accession of ..... PL 106–286 Sec 601 343
World Trade Organization obligations
Compliance by China
Report to Congress ..... PL 106–286 Sec 421 339
World Wise Schools Program
Redesignated Paul D. Coverdell World Wise Schools Program. PL 106–570 Sec 603 1586

Y

Yatama Indians
Appropriations, 1989 ..... PL 100–276 Sec 3(g) 287
Yugoslavia-U.S. relations
Democratic transition
Foreign aid ..... PL 101–243 Sec 201 119
International tribunal
Judicial assistance ..... PL 104–106 Sec 1342 997
Operation Allied Force
Conduct of military operations ..... PL 106–65 Sec 1211 873
Costs to United States ..... PL 106–398 Sec 1221(a) 833
War crimes, genocide, and crimes against humanity
Sense of Congress ..... PL 106–65 Sec 1212 875

Z

Zablocki Outpatient Facility
Funding authorization ..... PL 98–266 153
Zimbabwe Democracy and Economic Recovery Act of 2001. PL 107–99 165
Zimbabwe-U.S. relations
Debt relief ..... PL 107–99 Sec 4(b) 166
Democratic breakdown
Sense of Congress ..... PL 107–99 Sec 6 168
Democratic reforms
Foreign aid ..... PL 107–99 Sec 5 167
Democratic transition and economic recovery
Findings of Congress ..... PL 107–99 Sec 4 165
Policy on ..... PL 107–99 Sec 2 165
Support for ..... PL 107–99 Sec 4(b) 166

○

EDGE INDEX

To use the index on the left, bend the publication over and locate the desired section by following the black markers.

FOREIGN ASSISTANCE (p. 1)

AGRICULTURAL COMMODITIES (p. 1336)

THE PEACE CORPS (p. 1549)

APPENDICES (p. 1611)

INDEX (p. 1655)

NOTE.—Volume I is printed in two parts, I–A and I–B, effective 1994. Volume I–B contains legislation and Executive orders relating to other foreign assistance matters, the Armed Forces, agricultural commodities, and the Peace Corps.